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BY
CHARLEMAGNE TOWER, LL.D.



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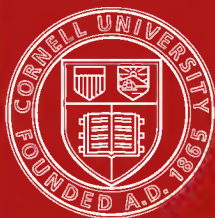
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ESSAYS
POLITICAL AND HISTORICAL

BY THE SAME AUTHOR

**"THE MARQUIS DE LAFAYETTE IN
THE AMERICAN REVOLUTION"**

BY

CHARLEMAGNE TOWER, LL.D.

**FORMER MINISTER OF THE UNITED STATES TO AUSTRIA-HUNGARY
AMBASSADOR TO RUSSIA AND TO GERMANY**

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THE EUROPEAN ATTITUDE TOWARD THE MONROE DOCTRINE

READ BEFORE THE AMERICAN SOCIETY OF INTERNATIONAL LAW, AT
WASHINGTON, APRIL 24, 1914

IN seeking to determine the sentiments of European statesmen or the general trend of public opinion on the continent in regard to the Monroe Doctrine, it can scarcely be said that there is a sufficient acquaintance with it in Europe to make it an object of close examination or of prime importance amongst the political questions that usually call forth active interest in men's minds; nor can it be classed amongst the set of subjects which are always near the surface in European life with which every man has made himself familiar and upon which he has a decided opinion. It has its value, however, as a possible international question which may present itself under given circumstances and may call for

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immediate attention some day, although at present a remote contingency. And as such the Monroe Doctrine is no stranger to the political leaders and Cabinet Ministers of Europe. A hundred years of American statesmanship and diplomacy have sustained the policy involved in President Monroe's declaration, in the midst of the vicissitudes and against all the obstacles which have presented themselves during that time, with such determination and such consistent vigor that there is no foreign observer or political student who does not know that the principles of the Monroe Doctrine have become an integral part of American national existence.

But, from the point of view of European nations this is not, of course, a matter likely to call forth sympathetic attention either in the sense of politics or of international law; because, whilst its field of activity lies across the Atlantic out of the atmosphere of European life and not connected, for the present at least, with the rivalries or the varied sources of ambition or jealousy always much nearer at hand, it could not well in any case be brought into play with a spirit of friendship toward European interests. It must, from its own nature, either remain dormant or awake in opposition to some Euro-

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pean impulse. The case cannot be otherwise, for the Monroe Doctrine is in itself the political line of demarcation between the two continents; it sprang up under circumstances which made inevitable the separation between the ruling ambitions and the national aspirations of the old world from those of the new, between the conscious supremacy of the youthful people whose ideals were expressed by liberty and independence on this side of the ocean and the inflexible conservatism of the older nations on the other who still clung to their own methods of governing men.

The Congress of Vienna had restored, as it was hoped, the equilibrium upon the continent and had given by its definitive understanding amongst the powers a renewed confidence that the principles of absolute monarchical government were firmly established once more upon a foundation of common interest. With the terrors of the French Revolution still fresh in their minds as a menace to the traditions upon which the authority and prestige of European government were acknowledged to depend, the Powers turned to each other for mutual support in maintaining the established system as the source of benefit to all; and to this end the Emperor of Russia,

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the Emperor of Austria, and the King of Prussia declared that: "looking upon themselves as delegated by Providence to rule each over his own people," they would lend one another, on every occasion and in every place, assistance, aid, and support, in the administration of government both internal and external, according to the precepts of justice, charity and peace.

Thus came into existence, by a treaty in 1815, the Holy Alliance, to which the King of France afterwards gave his adherence. It had for its object the protection of the divine right of Kings and resistance to every form of liberal thought. Its ultimate declarations defined "revolt" against constituted authority as a "crime" and set forth the "undoubted right" of the European Powers to take a hostile attitude toward those states in which the overthrow of the government was in contemplation; because they held "equally null, and disallowed by the public law of Europe, any pretended reform effected by revolt and open force." The Alliance asserted its determination, in consequence of this, "to repel the maxim of rebellion, in whatever place and under whatever form it might show itself."

Great Britain, though at first inclined to give at

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least a tacit consent to the undertakings of the Alliance, found herself isolated very soon after the full purpose of it became known; for she could not consistently take part in a movement intended not only to re-establish absolute monarchy but to combat all liberal ideas derived from the free will of the people, since her own government was in itself the expression of the public conscience and traced its origin to revolution, even to rebellion. But to the United States the principle of the Holy Alliance was a direct challenge in all that related to the traditions of the nation and to the spirit and character of the race trained and developed by generations of self-reliance to a point where freedom of thought had taken its place amongst the high ideals of human life; for, how would it be possible to establish a more violent contradiction than that between the reactionary brute force in the declared intentions of the sovereigns by divine right who entered into the Holy Alliance for the purpose of combined support and protection and the unconquerable spirit of the independent people now masters in North America, amongst whom the leaders of political thought were Jefferson, Adams, Madison, and Monroe himself? From this situation and from the events that were

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taking place about it, the Monroe Doctrine was almost inevitable. It remained only for the quarrels between Spain and her colonies to fix its point of departure.

One after another, the American colonies of Spain had revolted against the central authority at Madrid,—not so much because of administrative abuses, of which no doubt there were sufficient at hand for the purpose, as from the incapacity of Spain to govern at all during the long period when the Napoleonic wars not only weakened her grasp across the sea but tied her hands so as to prevent her from controlling even her own affairs at home. Her magnificent dominions, which the Conde de Aranda had dreamed but a few years before of erecting into three or four separate kingdoms each governed by a Prince of the House of Bourbon, all subordinated to the controlling power of the King of Spain, were slipping away, and led by patriots of their own kin had declared their independence of the Spanish Crown; the insurrection began in Mexico in 1810, under the leadership of Hidalgo and Morales; Venezuela enacted a constitution in 1811; New Granada followed under Bolivar, in 1814; Peru, led by General San Martin, declared itself independent,

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as did also Chile, the Republic of Buenos Aires, and the countries of Central America.

In Spain itself a constitution had been established by the Cortes which was forcibly overthrown through the intervention of France, and French troops had been employed, even in the same year in which President Monroe delivered his message, to restore absolute authority in the Spanish kingdom by securing to Ferdinand VII the advantages of that form of "justice, charity and peace" which was the declared object of the Holy Alliance in its support and strict maintenance of legitimate power and the suppression of liberal ideas wherever they were found. Encouraged by the success which he had obtained through the aid thus afforded him by France, King Ferdinand appealed to the Holy Alliance to come to his assistance in regaining control over the South American Republics, in compliance with which it was decided that the representatives of the Powers should hold a conference at Paris in order, as they announced, "to aid Spain in adjusting the affairs of the revolted countries of America."

This purpose was known in the United States through communications which had taken place several years before; and Mr. Adams, writing in 1819

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as Secretary of State, to Mr. Thompson, Secretary of the Navy, had said: "It is now well ascertained that before the Congress of the great European Powers at Aix-la-Chapelle, their mediation had been solicited by Spain, and agreed to be given by them for the purpose of restoring the Spanish dominion throughout South America, under certain conditions of commercial privileges to be guaranteed to the inhabitants. The Government of the United States had been informed of this project before the meeting at Aix-la-Chapelle, and that it had been proposed by some of the allied Powers that the United States should be invited to join them in this mediation. When this information was received, the ministers of the United States to France, England and Russia were immediately instructed to make known to those respective governments that the United States would take no part in any plan of mediation or interference in the contest between Spain and South America, which should be founded on any other basis than that of the total independence of the Colonies."

Mr. Canning, at the British foreign office, growing apprehensive of the turn that public attention on the continent had taken in the direction of South Amer-

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ica, intimated the unwillingness of Great Britain to join in the movement of the Powers toward the coercion of the Spanish colonies. Indeed, England's interests had materially advanced in South America by the extension of her commerce which had followed upon the independence of the colonial dominions there and the consequent opening of the ports of the southern republics to foreign traffic, and she feared to see herself deprived of these growing advantages to her trade if those countries were reduced again to subjection by their ancient metropolitan under whose authority their commercial operations would once more be controlled and monopolized from Madrid. Besides this, British statesmen were evidently fearful of the somewhat dominating influence of France in the affairs of Spain, particularly since the re-establishment of Ferdinand VII and his restoration to his throne as an autocratic sovereign had taken place through the means of French intervention. It was suspected in England that if the power of the Holy Alliance should extend itself now to the revolted colonies, as men began to think it might do, and should carry with it into them also the reasserted authority of the Spanish Crown, the obligation of Spain would have become so great

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toward her near neighbor and ally that King Ferdinand might feel impelled by gratitude to transfer to France, as a reward for her friendship, the island of Cuba, which Great Britain was believed to covet for herself.

At all events, it did not comport with British policy that England should associate herself with the proposed movement; it appeared, on the contrary, that her government was quite ready to oppose it decisively. Mr. Rush, the American Minister in London, reported this to Mr. Adams, as Secretary of State, in the accounts which he sent home of his conversations with Mr. Canning; for the latter referred somewhat frequently to the affairs of Spain in the course of their official and personal relations, as well as in a confidential correspondence between them which reached its culminating point when Canning addressed an unofficial and confidential note to Rush on August 20, 1823, in which he said: "Is not the moment come when our governments might understand each other as to the Spanish-American Colonies? And if we can arrive at such an understanding would it not be expedient for ourselves, and beneficial for all the world, that the principles of it should be clearly settled and plainly avowed?"

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“For ourselves we have no disguise.

“We conceive the recovery of the colonies by Spain to be hopeless.

“We conceive the question of the recognition of them, as independent states, to be one of time and circumstances.

“We are, however, by no means disposed to throw any impediment in the way of an arrangement between them and the mother country by amicable negotiation.

“We aim not at the possession of any portion of them ourselves.

“We could not see any portion of them transferred to any other power with indifference.”

Mr. Canning suggested that if these were the opinions of the United States Government with that of Great Britain, “why should we hesitate mutually to confide them to each other, and to declare them in the face of the world?”¹

England had arrived, therefore, though by a different course of reasoning and with an entirely different object in view, at the same conclusion with ourselves, that the overthrow of the South American

¹ Proceedings of the Massachusetts Historical Society, January, 1902.

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Republics must be prevented, and she offered to unite her strength with ours with that end in view. Her influence at that moment was so great with the continental Powers that there could be no reasonable doubt that Canning was right in his judgment when he declared that if any European Power looked to a forcible enterprise for reducing the Colonies to subjection on behalf of Spain, or meditated the acquisition of any part of them to itself, such a declaration as he proposed, if made by the governments of Great Britain and the United States, "would be at once the most effectual and the least offensive mode of intimating their joint disapprobation"; for it would at the same time put an end to all the jealousies of Spain with respect to her remaining colonies; and he gave it as his final opinion that "there has seldom, in the history of the world, occurred an opportunity when so small an effort of two friendly governments might produce so unequivocal good and prevent such extensive calamities."

The situation was a perplexing one to President Monroe, who discerned in it the obligation of the United States to maintain their principles of free government; yet he feared to overstep the fixed line in American politics and enter into the conflict of

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European affairs. " Shall we entangle ourselves at all in European politics and wars, on the side of any power against others," or, "if a case can exist in which a sound maxim may and ought to be departed from, is not the present instance precisely that case?" "Has not the epoch arrived when Great Britain must take her stand, either on the side of the monarchs of Europe or of the United States?" questions which, with the consciousness of his own responsibility, he had submitted to Mr. Jefferson and Mr. Madison, begging them for their opinions; and he announced at the same time: "My own impression is that we ought to meet the proposal of the British government, and make it known, that we would view an interference on the part of the European powers, and especially an attack on the colonies, by them, as an attack on ourselves, presuming that if they succeeded with them, they would extend it to us."² These questions Jefferson declared were the most momentous that had ever been offered to his contemplation since that of independence. "That made us a nation," said he, "this sets our compass and points the course which we are to steer through

² President Monroe to Mr. Jefferson, 17th October, 1823. J. B. Moore, *Digest of Int. Law*, vol. 6, p. 393.

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the ocean of time opening to us." "One nation, most of all, could disturb us,—Great Britain can do us the most harm of any one, or all on earth; and with her on our side we need not fear the whole world."

But England was not, as the event proved, a participant in the pronouncement of President Monroe, when it was finally made, because he spoke of his own motion and by his own authority when he addressed his message to Congress; though the correspondence with Canning shows beyond question that Great Britain was ready to join with the United States in their warning to the Powers not to lay forcible hands upon the Republics of South America, and she is to be regarded to that extent as having been a factor, perhaps a very important factor, in the formation of the Monroe Doctrine. She recognized the South American States subsequently by making commercial treaties with them without great delay, and the message of the President found a cordial reception in Great Britain, having been published in the *Annual Register* with the comment that: "This coincidence of view and purpose on the part of the two great maritime powers of the Old and New World was, of course, decisive against the further enter-

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tainment by the allies of any such purpose as that which has been imputed to them.”

But on the continent the President's message aroused a storm of opposition, which might have been expected. As a declaration coming from a government not yet half a century old, without prestige in the eyes of European statesmen, certainly without formidable power as against the united strength of Europe, it was spoken of with contempt and looked upon as a display of American arrogance.

No formal communication of the contents of the message having been made by the United States to the Holy Alliance or to any Power, the declaration was not considered to be international; nor was it regarded as having a legal validity that could affect the conduct of any other nation, for as a purely domestic communication to the United States Congress it was not held to be a rule of international law that could legally affect any other country, neither was any one bound to take formal or official notice of it.

From the point of view of international law, this may be said to be substantially the conviction of European jurists and statesmen to-day:—that is to say, that the message did not purport to lay down

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any rule binding on any Power, or on the United States themselves, as part of the law of nations; that it did not create or offer any conventional obligation.

As a measure of self preservation, however, the Monroe Doctrine was not, from the American point of view, without its justification by appeal to international law, precisely as the intentions enunciated by the European sovereigns were justified in their view by the principles of the Holy Alliance. It was in fact the converse of that, for, since the law of nations concedes to every sovereign state the absolute right to provide for its own self-preservation and self-defence, the Monroe Doctrine had as its object the integrity of free government and liberal thought, just as the Holy Alliance was formed for the purpose of destroying liberalism and restoring absolutism from which the nations of the world were then beginning to escape but in which the allied sovereigns believed to reside all their rights and all the elements of their further existence. But it would seem, by the same reasoning, that they themselves had overstepped the limit of international law in their efforts to force upon any people a government without the consent of the governed, and Jefferson

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expressed it as his opinion that the occasion offered itself "of declaring our protest against the atrocious violations of the rights of nations by the interference of one in the internal affairs of another, so flagitiously begun by Bonaparte, and now continued by the equally lawless Alliance calling itself Holy."

President Monroe had won a complete success, however, through the announcement of the policy of his administration; the proposed intervention of the allies was abandoned and Spain recognized the independence of the South American Republics by separate treaties not long afterwards. The United States had declared to the world that "the American Continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers,"—and, "it is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness. It is equally impossible, therefore, that we should behold such interposition with indifference."

So much has been written upon this subject, and the arguments to which it has given rise are so complex in themselves and supported frequently by dis-

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cussions so diffuse as to make it tedious even to attempt to enumerate the many volumes in which they are contained. In our effort, however, to ascertain the sentiment of Europe toward the Monroe Doctrine in general, it may suffice perhaps to take as examples the conclusions of a few of the prominent jurists who have expressed their opinions of recent years in regard to it both in Great Britain and upon the continent.

One of the most eminent amongst these, for instance, M. de Beaumarchais, has declared that the first passage of the Doctrine, relating to colonization by European nations, has very little more for us to-day than a historical interest, because the whole territory of America is actually appropriated and consequently can no longer be regarded as the subject of European colonization:—for, if the delimitation of the territory and the question of boundary lines may give rise to international complications, it would be an error to declare that European states could found, at any future time, colonies in the New World.³ He recalls the conditions agreed to by all international lawyers upon this point, namely: that

³ *La Doctrine de Monroe*, Maurice de Beaumarchais, Paris, 1898, page 24.

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land sought to be appropriated by a state must be *territorium nullius*—that is to say, susceptible of occupation but not actually appropriated, and the taking possession of it shall be effective, made so by the occupant *animo domini*. To these conditions, M. Beaumarchais points out, Monroe added another in the case of European States intending to found new colonies in America, namely, “the consent of the United States.”

As to this, another French author, M. Merignhac, asserts decisively that the interdiction of Monroe is “absolutely contrary to the law of nations,” for it is not to be tolerated that one nation shall close an entire continent against the colonization of the people of other hemispheres.⁴ So also M. Charles Salomon, attacking this assertion of the Monroe Doctrine, affirms that it is either “useless or abusive,”—*useless* if all the American territory is really occupied; *abusive* if it is not; because, in spite of the Monroe Doctrine, which is not a rule of international law and has never bound any one, the taking possession by a European state of land lying in the American continent would be a legal occupation, provided

⁴ La Doctrine de Monroë, à fin du XIX^e Siècle. Revue du Droit Public et de la Science Politique, 1896, p. 206.

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that such land should be what is usually accepted as *res nullius*.⁵ Therefore, concludes M. de Beaumarchais, the first point of the Monroe Doctrine never was of great importance, and such interest as it has for us now is purely theoretical; it is contrary to the universally accepted principles of international law, for no state can modify the situation of territories which do not belong to it, and no Power has ever recognized the principle of non-colonization which the United States have sought to impose upon Europe on the American Continent.

The European jurists are almost unanimous in regarding the Doctrine in all its parts, relating not only to colonization but to intervention as well, as being untenable and not binding by the accepted rules of law. Mr. Reddaway, for example, says in his treatise on the subject, that the United States could not by a declaration affect the international status of lands claimed, ruled, or discovered by other Powers. They might proclaim in advance the policy which they would adopt when such questions should arise, but no unilateral act could change the law of nations. He declares further, in regard to the second form of the Doctrine as well as the first, that

⁵ *Ubi supra*. L'Occupation des Territoires, sans Maîtres, p. 252.

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it is a vague declaration of policy, and in no way a formulation of rules prevailing between states. No line or paragraph, says he, represents an addition to the body of rules prevailing between states. From the first word to the last, it is a declaration of the policy of a single Power. To derive from the whole principles which are essentially absent from all the parts, would be contrary to reason.⁶

Thus, the opinions of European lawyers are hostile to the Doctrine of Monroe from every point of law; they declare that it has never bound any one nor can it do so, because it does not carry with it the least legal obligation which other nations are called upon to take notice of or submit to. M. Hector Pétin, in his exceedingly careful investigation of this subject, published in 1900, gave it as his judgment that Monroe, not being a great jurist, was not impelled by considerations of law in composing his message; it was not the lawyer but the politician who spoke, and that Monroe kept always before him a political notion which was his constant guide; that is to say, that America, forming a separate continent of its own, has freed itself from the political system of

⁶ The Monroe Doctrine, W. F. Reddaway, Cambridge, 1898, chapter vii.

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Europe, and the measures adopted to assure peace and public order in Europe are without effect when applied to the affairs of America. "Monroe did not resist the intervention of the Holy Alliance in America because the principle of intervention is wrong, but he fought it solely upon the ground that whilst the European Powers had a right to establish the equilibrium in Europe to suit themselves they had nothing to do with the equilibrium in America." M. Pétin, who agrees with the other European writers, that the Monroe Doctrine is false from the point of view of law,—so destructively false, in his view, that if accepted it would tear down the structure of international law from top to bottom,—describes it as a mere declaration of policy.⁷

And here we touch the ground upon which our European critics meet, the point at which their judgments coincide—namely, that the Monroe Doctrine is merely a declaration of American national political faith; it points out the course of action which the United States will take under given circumstances and defines the political relations of the United States Government, under such circum-

⁷ *Les Etats-Unis et La Doctrine de Monroë*, par Hector Pétin, Paris, 1900, chapter v.

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stances, with the other governments of the world. We may fairly conclude that this is, perhaps, as nearly as we can present it with any distinctness of form, the attitude of Europe toward the declarations of Monroe. It is not supported by law; it is but the political system of the United States.

Sir Frederick Pollock clearly expressed the general opinion when he said:

“The message did not purport to lay down any rule binding on any power, or on the United States themselves, as part of the law of nations. It did not create or offer any conventional obligation. The United States, in fact, declined not long afterwards to take any steps which might be construed as a definite promise to the South American republics. The declaration was an independent policy to be interpreted and executed by the sole discretion of the nation whose chief magistrate had declared it; and from this attitude the United States have not departed. Not that Monroe’s dictum could have of itself any binding force on his successors. Its present importance is derived, on the contrary, from their continuous and deliberate approval. The Doctrine is a living power because it has been adopted by the Government and the people of the United States, with little or no regard to party divisions, for the best part of a century. Since it is not a formula to be construed accord-

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ing to its literal terms like a statute or a convention, there is no reason why its application should be limited to precisely similar facts. The question in every case is not whether the facts fall within Monroe's words, or the words of any later president or secretary of state, but whether they are within the spirit and the general purpose of the policy to which Monroe's message first gave an authentic shape."⁸

Solely a political doctrine, then, proclaimed as the rule of conduct which the United States have adopted for themselves, and pointing out the line of action which their Government may be expected to follow under given circumstances for the maintenance and defence of its own integrity and the support of free institutions throughout America. This would seem to be the interpretation in Europe of the Monroe Doctrine. Its importance as a factor in the intercourse between nations, as estimated by foreign statesmen in so far as it enters into their calculations at all, depends upon the ability of the United States to support it,—either by the imposing influence of their national prestige, as in the case of the Venezuela boundary dispute,—or by a demonstration of force, if need be, as in regard to the expedi-

⁸ The Monroe Doctrine. Frederick Pollock, *The Nineteenth Century*, October, 1902.

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tion sent by the Emperor Napoleon into Mexico. The latter may be taken, indeed, as a complete illustration of the Monroe Doctrine when brought into action and effectively supported by the United States. The Emperor Napoleon assured his subjects and the world, in his address to the Chamber, in January, 1866, with reference to Mexico, that "the sole object of the Powers in intervening in that country was to secure the fulfilment of the obligations which it had already undertaken."⁹ But the United States were engaged at the time in a struggle for life at home, which was generally expected throughout Europe to end in a dissolution of the Union; the moment was favorable and the opportunity appeared to offer itself to the development of the ambitious plans of the Emperor quite regardless of the protests of the United States because, evidently, the United States had not then, and, as he thought, probably never would have, strength enough to interfere with him. We have the authority of M. Pétin in this connection, who declares that the Government of France intended to prevent the United States from extending toward the south and acquiring an uncontested predominance in America. The Emperor himself de-

⁹ Pétin, *ut supra*, page 185 *et seq.*

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scribed his purposes in a letter to General Forey, explaining to him that "France is extending its beneficent influence into the centre of America, she will create immense outlets for our commerce,—whilst the Prince who shall mount the throne of Mexico will always be obliged to consider first the interests of France, not alone out of gratitude, but because he will not be able to separate himself from our influence."

"Napoleon had observed," says M. Pétin, "how fully the Monroe Doctrine was anti-European; he comprehended that the proclamation of the fifth President of the United States was nothing less than a declaration of war against the Old World, and he decided to show America that Europe had taken up the gauntlet."

Mr. Seward's correspondence of that time discloses the hand of a man who perfectly understood the situation which confronted him, whose mind was firm and his diplomatic intercourse entirely correct; it gives the impression that he felt that he was making all that was possible out of the circumstances which he had to face. He could neither take an aggressive attitude nor would he retire from the field.

But when the civil war at home had ended in the

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restoration of the Union and the Federal Government saw itself able to dispose of a strong army of veterans both of the North and the South, Mr. Seward wrote his dispatch of December 16, 1865, instructing Mr. Bigelow to inform the cabinet in Paris upon two points:

First.—That the United States earnestly desire to continue and to cultivate sincere friendship with France.

Second.—That this policy would be brought in immediate jeopardy, unless France could deem it consistent with her interest and honor to desist from the prosecution of armed intervention in Mexico.

This was the famous dispatch which was well understood to mean: “Withdraw or fight.”¹⁰

It is not to be expected from anything that has occurred since that time that any foreign nation will feel itself more bound to-day than it was then to respect the principles declared by President Monroe, unless there is sufficient power in this Government to enforce them; all European writers agree that no nation has recognized his doctrine. Indeed, Mr.

¹⁰ Mr. Seward, Secretary of State, to Mr. Bigelow, Minister to France, No. 332.—Dec. 16, 1865. H. Ex. Doc. 73. 39 Cong. Moore, Digest, vi, 501.

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Roosevelt himself, its most determined advocate in our day, evidently had this in mind when he declared to the country in his annual message of 1901: "The navy offers us the only means of making our insistence upon the Monroe Doctrine anything but a subject of derision to whatever nation chooses to disregard it."

One of the latest critics upon this subject whose profound study of the Doctrine of Monroe in its relation to the precepts of international law, the distinguished German jurist, Dr. Herbert Kraus, declares in his work printed within a year, at Berlin, that there has not been a single instance in which the interference of the United States between American and non-American states upon the ground of the Monroe Doctrine can be traced to a justified purpose of self-protection,—neither has there ever been an instance in which the United States could have been justified in such intervention, because in no case has there ever been an actual danger which threatened the national existence of the United States Government. He pronounces illegal the employment of that Doctrine to obstruct by force the just development of the political power of non-American states in America, unless such intervention be called for by

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danger arising from such development and actually threatening the integrity of the United States.¹¹

Dr. Kraus contends against the assertion that the Monroe Doctrine has been recognized, either through the acquiescence of the Powers in the declaration made by the United States and spread upon the minutes of the Hague Conference or by the reference made to it either directly or indirectly by any of the European Powers, which he describes as merely a small number of expressions of friendly sentiment; for he gives it as his decided opinion that no state has as yet recognized the Monroe Doctrine as part of the law of nations.

Taking all this into consideration and allowing all these arguments to exert their full influence, we must observe, however, that President Monroe's declaration has not been and is not likely to be disregarded; for, on the contrary, we have the example of England when she agreed to negotiate with us in relation to a question of her boundary line with Venezuela in which nothing else could have afforded the United States even a shadow of authority to

¹¹ Die Monroedoktrin in ihren Beziehungen zur amerikanischen Diplomatie. Herbert Kraus, Berlin, 1913, pp. 360-61.

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intervene. We have also the *pro memoria* on behalf of the German Empire delivered to the Department of State by Herr von Holleben, the German Ambassador in Washington, in 1901, in relation to its claims in Venezuela, in which document his Government announced to the Secretary of State:

“We consider it important at the outset to inform the Government of the United States as to our intentions, in order that we may show that we have nothing else in mind than to aid those of our citizens who have suffered damage.

“We declare particularly that in our proceeding we do not contemplate, under any circumstances, either the acquisition or the permanent occupation of Venezuelan territory.”

And, as indicating still further that the Doctrine is at least taken notice of in connection with recent events, we have the statement of the French premier, M. Dumergue, who, in reporting to the Parliament in regard to foreign affairs, in the month of March, 1914, informed the Chamber that the French Government, whilst taking steps to protect French citizens in Mexico and having sent French men-of-war to Vera Cruz for that purpose, France had no intention of taking part in the domestic affairs of Mexico, in order not to interfere with the freedom of action

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of the United States. The French Government having placed, said M. Dumergue, the fullest confidence in the Cabinet of Washington.

Upon the whole, it is safe to say that no European government to-day would think either of establishing a colony or attempting to occupy territory on the American continent without considering in that connection the attitude of the United States.

THE TREATY OBLIGATIONS OF THE UNITED STATES RELATING TO THE PANAMA CANAL

READ BEFORE THE AMERICAN PHILOSOPHICAL SOCIETY, APRIL 17, 1913

It may not be amiss to call to the attention of students of contemporaneous foreign politics a subject which has been considerably discussed of late, in Congress and throughout the country, and cannot be considered in any sense to be new; but which in spite of this fact, and of a certain familiarity which it has acquired in men's minds from frequent mention, is still of such paramount importance that it can scarcely be too plainly or too forcibly brought before the sober consideration of the American people,—the international obligations undertaken by the United States in the treaties relating to the Panama Canal.

The subject of a canal across the narrow strip of land that joins the two continents is one, indeed, that is nearly contemporaneous with the discovery of America; for its advantages made themselves evident even to the earliest explorers and navigators, who, upon returning to Spain, in 1528,—more than

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150 years before William Penn entered the Delaware,—presented to the Emperor Charles V a plan for the opening of a waterway through the Isthmus of Panama; a project that never was lost sight of and which acquired greater importance to us, both from our political and commercial point of view, after our separation from Great Britain and the establishment of our independent nationality.

In 1826, Mr. Clay, then Secretary of State, wrote, in connection with a Congress at Panama:

“A cut or canal for purposes of navigation somewhere through the isthmus that connects the two Americas, to unite the Pacific and Atlantic Oceans, will form a proper subject of consideration. That vast object, if it should be ever accomplished, will be interesting, in a greater or less degree, to all parts of the world.”

We were not in a position at that time to think of undertaking such a work ourselves, though our Government was alive to the opportunity and wished to participate in the advantages that would arise from a canal; and Mr. Clay added:

“If the work should ever be executed so as to admit of the passage of sea-vessels from ocean to ocean, the benefit of it ought not to be exclusively appropriated to any one nation, but

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should be extended to all parts of the globe upon the payment of a just compensation or reasonable tolls."

The progress of events and the growth of our importance as a nation enlarged the interest of the people of the United States in the passage through the isthmus, which was taken up in the House of Representatives in compliance with a memorial from the merchants of New York and Philadelphia in 1839. A resolution was adopted by the House that the President should be requested:

"To consider the expediency of opening or continuing negotiations with the Governments of other nations, and particularly with those the territorial jurisdiction of which comprehends the Isthmus of Panama, for the purpose of ascertaining the practicability of effecting a communication between the Atlantic and Pacific Oceans, by the construction of a ship canal across the isthmus, and of securing forever the free and equal right of navigating such Canal to all nations."

A treaty was entered into, seven years later, in 1846, between the United States and the Republic of New Granada, which was the first effective step taken by our Government in the direction of the actual transit across the isthmus and of our partici-

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pation in its construction and maintenance of way. This was a treaty of peace, amity, navigation, and commerce with New Granada, and was continued in operation by the Republic of Colombia into which that state was subsequently transformed, and it is to this agreement, entered into by us during the administration of President Polk, through an immense amount of negotiation and correspondence that has taken place since between ourselves and other Governments, particularly those of the Central and South American republics as well as Great Britain and France, that may be traced the origin of the interests and claims under which the United States have constructed the canal and are in control of the territory of the canal zone on the isthmus to-day. The treaty extended to the citizens of the United States all the privileges and immunities of commerce and navigation in the ports of New Granada that are enjoyed by the Granadian citizens themselves, and the Government of New Granada guaranteed to the United States, "that the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist or that may be hereafter constructed, shall be open and free to the Government and citizens of the United States." In re-

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turn for these favors the United States guaranteed: "positively and efficaciously, to New Granada, the perfect neutrality of the isthmus, with the view that the free transit from the one to the other sea may not be interrupted in any future time while this treaty exists"; and, in consequence, the United States guaranteed, "in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory."

Therefore we had acquired a controlling influence at Panama which enabled us to play so prominent a part that we might begin to make effective plans for the construction of a canal; whether we should decide to build it ourselves, or whether the work should be done by others, it was quite certain that no canal could be made without our consent. We had secured the constant enjoyment to ourselves of the commercial privileges enjoyed by the inhabitants of New Granada, and as New Granada was a weak power we made the stipulation in return for the favors that she had shown to us that the United States Government with its superior strength would protect New Granada in her rights of ownership on the Isthmus of Panama and would guarantee that she should always maintain her sovereignty over that territory. We

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failed afterwards to carry out our agreement in this respect; and the protest of Colombia, taken upon its merits as a matter of international law, is very serious,—but that belongs to another subject.

Our attitude was made plain at that time by the message with which the President submitted this treaty to the Senate, in 1847, for its approval and ratification, in which he announced formally the policy of the United States to develop the communication through the isthmus for the benefit of the commerce of the world at large.

Mr. Polk declared that the treaty did not “constitute an alliance for any political object, but for a purely commercial purpose, in which all the navigating nations of the world have a common interest.”

“The ultimate object is to secure to all nations the free and equal right of passage over the isthmus. If the United States should first become a party to this guaranty, it cannot be doubted that similar guarantees will be given to New Granada by Great Britain and France.”

If the proposition should be rejected by the Senate, the President said, “we may deprive the United States of the just influence which its acceptance might secure to them, and confer the glory and benefits of being the first among the nations in con-

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cluding such an arrangement upon the Government either of Great Britain or France.”

But, at the time that this treaty was made, Great Britain claimed dominion in certain parts of Central America over which she exerted authority and of which she was in actual possession; these were the territory extending along the coast of Guatemala, called Belize or British Honduras, including an island called Ruatan and other Bay Islands, and she asserted a protectorate over a long stretch of Nicaragua inhabited by the Mosquito Indians, called the Mosquito Coast. She had a more direct claim upon and closer personal relation with the people of Central America than we had,—her occupation of British Honduras dating back at least to a treaty which she made with Spain in 1786.

In pursuance of our policy, however, of creating a neutral territory at the isthmus, and of preventing the establishment there by any single foreign nation of exclusive control, we proposed, in 1850, that Great Britain should unite her interests with ours in order that not only the canal should be built upon fair and equitable terms, “but that its construction should inure to the benefit of all nations and should offer equal opportunity to the



MAP OF CENTRAL AMERICA
INDICATING THE BRITISH
TERRITORY IN HONDURAS
AND THE MOSQUITO RESERVE

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commerce of the world; and for this purpose we invited Great Britain, and she consented, to enter into a convention with us with the intention of setting forth and fixing the views and intentions of both Governments, with reference to any means of communication by ship canal which may be constructed between the Atlantic and Pacific Oceans by way of the river San Juan de Nicaragua, to any port or place on the Pacific Ocean.” This was the Clayton-Bulwer Treaty, which was signed at Washington on the nineteenth of April, 1850, by Mr. John M. Clayton, then Secretary of State, and Sir Henry Lytton Bulwer, British Minister to the United States. By it:

“The Governments of the United States and Great Britain declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the ship canal, will not fortify, or colonize, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; also, that neither Great Britain nor the United States will take advantage of any intimacy or alliance that it may have with any Government through whose territory the canal shall pass, for the purpose of acquiring or holding any rights or advantages in regard to commerce or navigation through the canal which shall

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not be offered on the same terms to the citizens or subjects of the other.”

The treaty having thus provided for the joint action of Great Britain and the United States, and having agreed that the two Governments should give their support and encouragement to any persons or company who might first offer to begin the canal with the necessary concessions and capital, the two contracting nations included in it the following statement:

“The Governments of the United States and Great Britain having not only desired, in entering into this Convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, which are now proposed to be established by the way of Tehuantepec or Panama”;—it being understood—“that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of,—and that the same canals or railways, being open to the citizens and subjects of the United States and

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Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.”

Thus, the Clayton-Bulwer Treaty became the foundation for the ^{new} understanding between the United States and Great Britain and provided for an absolute equality between them in regard, not only to the protection which they united to give to any inter-oceanic communication that should be established, but also formally declared that both Governments should approve of any charges or conditions of traffic,—that is to say, tolls,—which might be imposed, and that no such tolls should be imposed, in fact, which had not the approval and consent of both Governments.

The United States Government considered that it had entered into an agreement that was both just and equitable toward both parties, as a definition of the rights and duties of each and a basis upon which the isthmian canal should be built as a benefit to the commerce of the world.

And further, we not only held ourselves to be bound by the stipulations of this agreement, but we

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called upon Great Britain to sustain her part of it by a very strict interpretation of the law, quite beyond what the British Cabinet had expected in entering into the engagement, and a good deal more than it was willing at first to concede; for we contended that by the provisions of the treaty both nations had promised not: "to make use of any protection or alliance which either has or may have with any state or people for the purpose of fortifying or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, *or of assuming or exercising dominion over the same.*" And we called upon the British Government, under this provision, not only not to extend its political influence in Central America but also to give up such claims as it might already have acquired in British Honduras, the Mosquito Coast, and the islands of the sea.

This was not at all what Great Britain had understood to be her position under the treaty, and Lord Clarendon declared (1854) that the contracting parties did not intend to include within its action "either the British settlement in Honduras nor the islands known as its dependencies," that whatever claims or influence Great Britain may have had there previously should remain undisturbed,—that the only

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question which might arise in regard to this was one relating to the boundary line of Honduras,—as to what was British Honduras and what was not.

“To this settlement and these islands the treaty we negotiated was not intended by either of us to apply,—and the British Government is more warranted in this conclusion from the fact that the United States sent a Consul to the settlement, in 1847, which Consul had received his exequatur from the British Government which was a recognition of the British claim.”

But, on our side, Mr. Marcy, Secretary of State, declared in answer to this (1856), “Great Britain had not any rightful possessions in Central America and at the same time, if she had any, she was bound by the express tenor and true construction of the Clayton-Bulwer Treaty to evacuate them, so as to stand on precisely the same footing in that respect as the United States.”

This defines our position in regard to the affairs of the isthmus; it insists that Great Britain shall place herself upon an exact equality with us; that she must give up any claims or privileges in which we did not share, in order that we may be precisely alike; but it marks also our obligation toward Great Britain,—for whilst we insisted that she should be on an equal footing with us, we promised that we should be upon

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an equal footing with her. We won our case and England, giving up the Mosquito Coast and the islands, came ultimately to our understanding, because of the Clayton-Bulwer Treaty; but the provision of the treaty was that: neither the United States nor Great Britain should exert any influence that either may possess, "for the purpose of acquiring directly or indirectly, for the citizens of the one any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other."

General Cass said (1858):

"What the United States want in Central America, next to the happiness of its people, is the security and neutrality of the inter-oceanic routes which lead through it. If the principles and policy of the Clayton-Bulwer Treaty are carried into effect, this object is accomplished."

It is to be observed that there are two distinct points of agreement which are set forth in this treaty as well as in all of the voluminous correspondence that had taken place in regard to it,—which points of agreement have never been lost sight of as the basis of the negotiations relating to the canal across the

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isthmus ; namely, the neutrality of the canal itself and the absolute equality between the United States and Great Britain in connection with it. We demanded it from the start and Great Britain has acceded to our demand with that principle in view, which has never been changed.

She was willing to join with us in building the canal, or she was willing that we should build it alone. And when after a good many years of delay we announced to her that we were in a position to undertake the work, and we made suggestions to her looking to that result, she agreed to make a new treaty with us, to supersede the old one, in order that the intended benefits might be secured and the work should progress.

The new treaty was signed in November, 1901, by Mr. John Hay, Secretary of State, and Lord Pauncefote, the British Ambassador, whence it has since become widely known as the "Hay-Pauncefote Treaty."

By this contract the two Powers—

"Being desirous to facilitate the construction of a ship-canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the Con-

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vention of the nineteenth April, 1850, commonly called the Clayton-Bulwer Treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the 'general principle' of neutralization established in Article VIII of that Convention, agreed that: The present Treaty shall supersede that of April 19, 1850. That the canal may be constructed under the auspices of the Government of the United States,—and that, subject to the provisions of the present Treaty, the United States shall enjoy all the rights incident to its construction, as well as the exclusive right of providing for the regulation and management of the canal." And, in order to make plain the understanding between ourselves and the British Government with whom we were dealing, we made this specific stipulation (Article III):

"The United States adopts, as the basis of the neutralization of such ship-canal, the Rules, substantially as embodied in the Convention of Constantinople (28 October, 1888), for the free navigation of the Suez Canal, that is to say:

"1. The Canal shall be free and open to the vessels of commerce and of war of all nations observing these Rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise."

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This is not an obscure subject. It is a treaty into which the United States entered openly and freely with Great Britain,—a treaty based upon all that had gone before, both in our correspondence and our engagements under which Great Britain placed herself and her interests upon an equality with us and with our interests in Central America. The situation is one that we have created for ourselves.

It is not a question as to whether we made a good bargain or a bad one, but it is a matter of the greatest importance to the American people that the Government of this country shall fulfill its engagements and carry out always and in every particular its international obligations.

DIPLOMACY AS A PROFESSION

IF we consider the representation of the Federal Government in foreign countries from the point of view of a professional service rendered to the state and the nation, there will be a certain interest for those who care for such things in the discussion of some of the details of diplomatic procedure and the ordinary rules which govern the practice of modern diplomacy, as well as the incidents which characterize diplomatic life, in order to obtain a glance at its official relations and social conditions which, while they are rather far removed and totally different from our own experience or habit of daily thought at home, are yet well defined and very carefully prescribed. They have their extensions, limitations, and adjustments to a set of circumstances under which they have developed through several centuries into what has become a professional career for a great many cultivated and scholarly men in the different countries of the world.

A history of diplomacy, pure and simple, would probably have to go back for its starting point to the earliest pages of recorded intercourse between the

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men of one country and those adjoining their frontier; of peoples and nations with others with whom they come into contact in the course of trade, of war, of conquest, or discovery; or as the result of the hundred incidents that might carry them away from their native soil or beyond the limits of the territory upon which they grew up. But with that we are not now especially concerned. Our attention is directed toward the diplomatic intercourse of our own day,—to the diplomatic representative of the period in which we live and are personally interested,—what he is, why he exists, how he obtains his authority, how he exerts it, what his duties are, and what service he renders to the country to which he belongs.

In the broadest sense, the diplomatist always has been, and is now, the representative of one country dealing with another country,—the agent abroad of his own government in the transaction of its public affairs or the transmission of its official public and private correspondence with another government; for governments like individuals and corporations, have dealings with each other upon subjects in which they are mutually interested,—the adjustment of the rights and interests of the one in regard to the rights and interests of the other; the protection of the citi-

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zens or subjects of one within the territory of another; the establishment of boundary lines; the negotiation of treaties and conventions; the extradition of criminals; the arrangement of joint action in the carrying out of international agreement; interchange of views, definitions of policy, and, in general, the exceedingly varied and numerous subjects of communication which naturally arise in the course of the life or the management of the affairs of a whole nation,—which we frequently call public business.

Diplomacy is in fact business; the business of the Government, it is true, but still essentially what we know in this country as business; therefore it can be best and most effectively transacted and concluded by men dealing with each other on either side who have had experience in business methods and in the treatment of large questions. It has been the habit to look upon diplomacy as something occult or mysterious, beyond the reach of men in common life, that requires in some way an unusual talent by which the possessors of it are singled out into a class apart from their fellow men. There is nothing of the sort, of course. What is true, however, is that an able and intelligent man will find his way in the diplomatic service of the Government exactly as he would

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do in any other profession which his taste or disposition might lead him to adopt. But it is beyond doubt, also, that he ought to have a certain degree, at least, of training to fit him for his duty, as he would find it necessary in any profession, in the army or the navy, in a responsible position at the head of a bank or a great trust company or in the management of a railroad. For he is the responsible agent of his country, and it is through him as such that negotiations are made, correspondence is carried on, and the instructions of his government are fulfilled abroad.

Nations and great powers do not address each other directly in the general transaction of affairs in which either one or both of them may be interested; but they have come in such matters to deal with one another through the channels which have been established by long custom as suitable to the purpose, and by methods recognized by all to be convenient and proper. These channels are their own national agents selected by each government; and the methods of communication are what we know in general as diplomacy.

In accordance with this arrangement each country sends to every other country with which it is at

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peace one of its citizens or subjects who shall reside in that country and near to its sovereign or official head, for the purpose of bearing or receiving official communications; and to that end he is duly authorized and accredited with power to act under the authority which his own government has delegated to him in the circumstances. So that an interchange of these national agents takes place now between all civilized countries of the world, and it has led to the foundation of what we know as the diplomatic service.

The United States, for instance, have their representative to-day at every important capital or government centre in the world, with whom the Department of State at Washington is in immediate communication and who is ready to act at a moment's notice if a case should arise in which the interests of the Government need to be watched or cared for or the rights of an American citizen protected.

This defines sufficiently, perhaps, the essential character and general usefulness of the diplomatic representative abroad. And if the question presents itself to one's mind as to what there may be for so many people in so many different parts of the world to do, the reply is, that the interests of America as a

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World Power are enormous; that with the growth of facilities of communication and the immense development of its commerce and trade its influence extends into every part of the world and there is no place where its citizens are unknown. Their rights and privileges create business that requires attention at all times, and they may give rise to serious cause of action at any moment. Indeed, it is very true of the diplomatic representative and of the responsibility which he holds toward his own government, that it is not only the things that are happening every day, of which he has notice and for which he is prepared beforehand, but the things which may take place at any moment and unexpectedly, that make him useful and important in his place. He may be compared to the sentry on duty; whom you may not need constantly or even every day, but when you do want his services you want them very much.

Like all other professions, diplomacy has been enlarged and developed in accordance with the circumstances of the times, keeping pace with the growth of intelligence amongst men and the extension of law and order, as well as with the vastly-increased means of intercommunication in modern days upon which is based the frequent and at times some-

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what complex intercourse between nations. In primitive times its manners were primitive, of course, in accordance with the habits of the men then living in the world, and in strong contrast with the methods of the highly-refined and formal procedure by which the negotiations relating to international affairs are carried on in our day. We have an interesting example of this in the fifteenth century in an account given by old Phillipe de Commines, who wrote about the time when Columbus came to America, himself a statesman and the earliest historian of European statesmen, in narrating the incidents of the embassy sent from France to Germany. The King of France, who wished the Emperor Frederick to seize and hold possession of the territory belonging to the Duke of Burgundy, dispatched an ambassador across the Rhine to communicate this suggestion to the German sovereign. Upon which the Emperor, after hearing the message, replied to the ambassador as follows: "There was at one time in the neighborhood of a village in France a bear which preyed upon the inhabitants and for a long period did much damage to the farms and gardens of the peasants living near. It happened also that one of the villagers, who was in debt and was threatened by his landlord whom he

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could not pay, begged the landlord for a little longer delay, saying that if he could have more time he would go out and kill the bear and so not only be rewarded by the thanks of everybody in the village, but be able to sell the skin of the bear and pay in that way all that he owed. His landlord agreed, and he started out upon the hunt accompanied by two of his companions intent like himself upon a famous act of daring. Proceeding in the right direction, they soon came upon what they sought, but the bear, being terribly fierce and much larger than they expected, turned upon them and made them run for their lives; one of the companions climbed a tree for safety and the other made the best of his way toward the houses of the town, whilst the villager himself, having stumbled and fallen, was lying upon the ground when the bear came up. Although he was in great peril he knew that it is the habit of bears to attack their prey only when it is alive, therefore he lay quite still and pretended to be dead. The bear, having snuffed him and nudged him without obtaining any response, turned finally and went away, leaving him unharmed; whereupon his friend who had been looking on from the branches of the tree came down, and, running to the villager.

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who was now raising himself from the ground, said to him with wonder and admiration: 'I saw him put his nose close to your ear! What did he say to you?' To which the other answered, 'He said: "Don't dispose of the bear's skin until you have got the bear!"' ' Four hundred years have not, perhaps, greatly changed the play of human feeling as reflected in the narrative of Phillipe de Commynes, nor dulled the wisdom of the Emperor's reply. But the forms are different now; so that if we were to undertake a similar negotiation we should naturally proceed in a very different way.

Originally the custom of receiving and sending envoys from one country to another made no distinction between the different classes of public ministers, but the modern law of nations had been brought by common usage, about the beginning of the nineteenth century, to recognize certain privileges and rights of precedence amongst diplomatic representatives, and this gave rise to such a continuation of rivalries and disputes for want of a sufficiently exact definition of rank that it was decided to be necessary to establish uniform rules by which the subject should be governed thenceforward. Accordingly, it was agreed at the Congress of Vienna, in

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the year 1815, that public ministers and representatives abroad should be divided into the following four classes: AMBASSADORS, ENVOYS EXTRAORDINARY or MINISTERS PLENIPOTENTIARY, MINISTERS RESIDENT, CHARGÉS D'AFFAIRES; and these distinctions then adopted are recognized and acted upon to-day. The most important diplomatic representative is, therefore, the ambassador. He is accredited and received as clothed not only with the authority of the government which sends him out, but as representing the person of his sovereign; and is entitled, in consequence, theoretically at least, to the same kind of honors that would be accorded to his sovereign if he were himself actually present. This places the ambassador upon a footing of equality, at the court to which he is accredited, with the family of the king, and establishes his rank upon all public occasions as before that of all the dignitaries or officers of the realm, and immediately after that of the princes of the blood. So, for instance, an ambassador of the United States at his post outranks every other citizen who might be there, except the President himself; and receives in fact honors similar to those which are due to a Chief of State when he is present.

It is this exclusive character as the representative

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of the person of the sovereign which gives to the ambassador an influence and an importance so far beyond the other members of the diplomatic corps; for there is a wide difference between him and the minister plenipotentiary who is duly accredited by the sovereign of his own country to reside near the court of another sovereign, though without the particular dignity attributed to the ambassador who stands in the place of the person of the Chief of State. A minister plenipotentiary is understood technically to represent his sovereign only in respect of the particular business committed to his charge at the court to which he is accredited; though it is true that he is the chief of mission and is treated as such with great distinction.

One of the prerogatives of an ambassador is, that he has the right to demand at any time a personal audience of the sovereign to whom he is accredited; and whilst this privilege is very seldom availed of now-a-days,—for all general questions are treated through the Secretary of State for Foreign Affairs,—yet, if, in the course of a serious or complex negotiation, the ambassador, not satisfied with a turn of events, should express formally his wish to have a personal interview with the King, his wish could not

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well be refused, because, although such a refusal, whilst it would probably not lead to an outbreak of hostilities, would be regarded as so great a breach of courtesy that it might be resented by a rupture of diplomatic intercourse between the two countries.

In common practice, however, the Chief of State takes frequent occasions to come into personal contact with the foreign ambassadors, availing himself of public celebrations when they are present, or taking the opportunity of the ceremonies at court to hold conversations with them, and he may even dine at their houses, as is frequently the case at European capitals; though the President of the United States has never departed as yet so far from the rules established at the White House as to dine at any foreign embassy in Washington. In this particular we are more conservative than many of the rulers of Europe, even in regard to so distinguished a personage as an ambassador.

If we should adhere strictly to the qualification of the ambassador,—namely, that he represents the person of his sovereign,—we should find that only crowned heads could send such agents abroad, and so it was considered under the old conception of foreign missions. But this limitation no longer con-

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tinues valid as between the powerful nations of modern times, and the rank of ambassador is conceded at present rather to the representatives of the great Powers without regard to the question whether they are governed by monarchies or not; consequently the diplomatic agents of the Republic of France and the United States are accorded ambassadorial rank at the capitals of Europe and are received not only as the personal representatives of the Chief of State but of the nation,—the sovereign people,—as well.

It will be observed, therefore, that the Government has in its ambassador a representative whose position is recognized abroad with the highest distinction; whose communications take precedence of all others in international affairs; who speaks with authority; who must be heard without delay, and through whom the interests of the nation may be immediately and effectively safeguarded or the instructions of the President through the Department of State may be instantly carried out.

The United States are represented now by Ambassadors in Great Britain, France, Germany, Russia, Austria-Hungary, Italy, Turkey, Japan, Mexico, and Brazil,—and each of these countries sends in return its representative of similar rank who is

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accredited to the President and has his official residence in Washington; the seat of his mission being known as an embassy, whilst that of lower diplomatic rank obtains the quality of a legation.¹²

At the capitals of other countries of Europe, in the Orient, and in South America our diplomatic agents are ministers plenipotentiary, who are duly accredited to the respective sovereigns or chiefs of state near whom they reside, and who represent our government interests with the same dignity abroad, though with somewhat less official authority than that of the ambassadors, because the great European Powers have never been willing as yet, in what is known as the concert of nations, to send to or receive from the smaller countries diplomatic agents of ambassadorial rank. Whilst they have made this concession to Japan, as we have also since the Russo-Japanese war, we are the only country which has extended this international courtesy to any of the South American republics. It was provided, however, by the agreement of the Congress of Vienna, that the representative of the Pope, bearing the title

¹² The mission of the United States to Argentina was raised to an embassy in 1914.

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of legate or nuncio, should be an ambassador, and, indeed, he takes precedence in Austria-Hungary to-day of all other diplomatic officers accredited to the sovereign of that country.

Although no state is under obligation to receive ministers from another, it results in common intercourse that an agreement is reached between the states as to the interchange which shall take place, and each state is free to annex such conditions to the reception of a foreign minister as it may see fit; though when he has been received he is entitled in all respects to the privileges annexed by the law of nations to his public character. The course pursued in our own case is this: when a vacancy occurs at the head of one of our embassies or legations abroad, and the President has selected some gentleman whom he considers suitable to fill the place, he causes an inquiry to be made as to whether the person so had in view would be acceptable to the government of the country in which the mission is situated if he were appointed to the vacant post. This inquiry is instituted by the Secretary of State at Washington, who instructs the officer then in charge of the affairs at the vacant mission to ascertain discreetly the opinion of the foreign government by a note to, or

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a direct communication with, the Minister for Foreign Affairs. Every government reserves to itself the unquestioned right to accept or reject a nomination thus proposed to it, and we have had cases ourselves in recent years where the objection of a foreign cabinet to the appointment of certain individuals suggested by our Department of State has been so decisive that after a more or less acrimonious official correspondence upon the subject we have had to give way and another man has ultimately been appointed to the place. But as a rule this preliminary inquiry, being carried on privately and confidentially as it is, spares the feelings of all the parties in interest by avoiding the embarrassments arising from publicity and leads generally to a satisfactory result. It is not likely that the person named by one government would be objected to by the authorities of the other, except in a case where he had made himself conspicuous by some public act or had given rise to hostility by some speech or writing especially offensive to the sovereign or the people of that country; and generally, therefore, the answer is returned to the Department of State that he will be *persona grata*, and if appointed will be gladly received and

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made welcome. This is what is known in diplomatic language as the *agrément*, which is usually regarded as tantamount to appointment of the person named.

As all our diplomatic officers of every grade are appointed by the President by and with the advice and consent of the Senate, the President sends the name to the Senate in the usual way, and upon the approval of that House of Congress a commission is issued from the Department of State to the appointee, which is signed in autograph by the President of the United States, sealed with the great seal and countersigned by the Secretary of State. It happens occasionally in this way that men are selected in this country from private life for service abroad who have never had any experience in foreign affairs and do not know in fact what diplomatic intercourse relates to or what it means; they are obliged to learn the business for which they have been sent out by the government, after they have arrived at their posts of duty. In this respect we cannot be said to have in the United States, as yet, a diplomatic service, properly speaking; for there is no provision made by law through which the diplomatic officials of the United States Government may enter a career as men do in the army and navy with an

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assured tenure and a fixed advancement for meritorious conduct or length of service; nor is there any likelihood, for the present at least, that the character of our service will be changed from that of a more or less accidental appointment due to political obligations or personal sympathies which succeed in making themselves felt in Washington. Whilst it is true that during the term of President McKinley the custom was followed by the Department of State,—and this was continued under President Roosevelt,—of promoting young men who have shown diligence and merit, and of keeping in the service, as far as possible, such as have had experience enough to entitle them to that sort of recognition, there is nothing to prevent an overturning of the entire diplomatic corps at the beginning of a new presidential administration; though, if the whole diplomatic list as it stands at the end of Mr. Taft's administration, for instance, were to be renewed, the result would be that in most cases the business of the United States Government would be taken out of the hands of men practised in it and matured by the results of four or eight or ten years of experience, to entrust it to new people who had not been taught anything and did not know anything about it.

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Foreign governments differ from us in this, that they have provided measures by which their international affairs can never be exposed to so damaging an occurrence. They have made a career of their diplomatic service so that it is always stable, always filled by men trained to its requirements, who may devote their energies and abilities to that department of the government interests and may make the practice of it their life-work. In England and France, for instance, or in Germany, Italy, Spain, Russia, or Japan, one might say also in all other countries, a strict preparation is required before a candidate may enter the service at all. In Germany, for example, he cannot obtain an appointment before he has taken his degree at the University, and then he is admitted only to the lowest grade. He is given service usually in the foreign office at home, in the beginning, and then sent for a time as a subordinate to a legation or an embassy of his country abroad. By this method he advances step by step in development and experience and mounts step by step the grades of the profession; so that in most of the European countries, if you meet a man who is a minister or an ambassador, you find a man who has had twenty or thirty, or perhaps forty years of active practice in

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the service of his country. The consequence is that diplomatic officers are, generally speaking, all trained by the same habit of thought, the same knowledge of affairs, and will proceed in the treatment of a professional question in very much the same manner, as any similar group of men would do in any of the learned professions,—each being guided by the accumulation of rules, customs, and traditions which have come to be the standard of usage or of professional comity. And in this respect the intercourse between the diplomatic colleagues of different nations at the same post is exceedingly sensitive. For, to represent his country well abroad a diplomatist must use the same unfailing delicacy of touch in the contact with his fellow-diplomatists as he employs in his relations with the authorities of the government to which he is accredited.

The life of a foreign minister at his post is necessarily a formal one,—he may scarcely be said to be upon terms of familiarity even with his intimate friends,—for, as chief of the mission, he is always the impersonation of his native country, and it is impossible for him to separate himself as an individual from the influence of his representative capacity. A great part of his relations are cere-

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monious, and sometimes they are laborious, though usually exceedingly interesting.

According to the usage which at present obtains, the first step of the diplomatic representative upon his arrival at his post is to inform the Minister for Foreign Affairs of his presence, requesting him to appoint a time to receive a visit from him; which is usually replied to without delay, so that the visit to the foreign office is made generally upon the day following that upon which the request is communicated. At this interview with the Minister for Foreign Affairs the envoy announces that he has come as the ambassador or minister of his country, bearing with him letters of credence addressed to the sovereign or chief of state, and he inquires when it will be agreeable to the head of the nation to receive him in formal audience for the purpose of the delivery of these letters and the messages of good will which he brings with him from his native land. To which the minister usually answers that he shall not fail to inform his master of the arrival of the envoy, promising to communicate with him in reply at the earliest possible moment. After a very short interval the time and place of the audience are announced for the presentation of letters,

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which, being regarded as the direct communication from one sovereign power to another, takes place amidst a display of the most formal ceremony and with the expression of every international courtesy that can add to the solemnity of the occasion. In the case of an ambassador, for instance, an officer of high rank at the court is sent to his residence in a state carriage belonging to the sovereign to conduct him to the palace where the audience is to be held, and the same officer accompanies him in state back to his residence after the ceremony is over. The actual presentation occurs under slightly different incidental circumstances at each of the different courts, though in every case the envoy is brought into actual personal contact with the sovereign himself.

At Vienna, for instance, the Emperor Francis Joseph is usually awaiting his guest in one of the rooms of the palace, the doors of which are closed upon the entry of the stranger, and the interview is had in complete privacy. At St. Petersburg the Emperor of Russia has upon some occasions been accompanied by the Empress at the audience of a foreign ambassador; whilst the German Emperor holds his audience at Potsdam or Berlin with great military state, surrounded by a brilliant staff of

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officers. It may be said that each of the European rulers has upon occasions of ceremony such as this his own peculiar grace of manner as well as his own characteristic courtesy in the expression of friendship and good will.

The German Emperor usually steps forward to greet the approaching diplomatist, who pronounces a few words of international greeting from his own country with the expression of the hope, as he hands him his letter, that the cordial relations may long continue to subsist between the two governments. Whereupon the Emperor in receiving the document makes an equally formal reply, reciprocating the wish for the continuance of cordial intercourse and ending, in the case of an American ambassador, with the request that his good wishes and friendly greetings may be conveyed to the President and the people of the United States. That having been accomplished, his serious tone changes, and with an engaging smile he enters into a personal conversation with his visitor, in a manner quite his own, full of manliness and high feeling, which has always won the cordial sympathy of those who have come into personal contact with him. In conversing with the American and British diplomatic representatives in

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Germany he speaks English, with which he is perfectly familiar and shows no trace of a foreign accent; though he uses French generally with the envoys of other countries.

French is accepted, indeed, as the diplomatic language of the world, the common meeting ground of every foreign envoy not only with the minister of state with whom he transacts the business of his government, but in his daily social intercourse or in the relations with his colleagues as well. Therefore, if one were sitting in a room with a number of diplomatic people of the most varied nationalities, for example, a Turk, a German, a South American, a Swede, a Persian, an Italian, a Russian, and a Greek, the conversation, in which all would participate with equal facility and probably would relate to subjects of general interest, political or otherwise, would be carried on always in French. So that the French language is absolutely indispensable in the intellectual equipment of the diplomatist abroad if he expects to have anything like the same footing as the people with whom he is thrown and comes into daily social contact. It is true that our own government requires its official instructions to be communicated to foreign governments in the English language, and

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whilst this is done, and no foreign government can well object to our procedure, the others reserve to themselves the right to employ their own language also; thus, whilst we address the Minister for Foreign Affairs at Berlin and St. Petersburg in English, the replies of the German Government are written in German and those of Russia in Russian. Though it is the accepted rule in Europe that if a note is received from a foreign mission composed in French, the answer to it is returned in French.

But aside from the question of the official written communications, personal interviews at the foreign office, in which by far the greater part of an envoy's business is transacted, are most frequently had in French, which every Minister for Foreign Affairs speaks fluently and expects to use in his official intercourse,—though it happens not infrequently that he speaks English quite imperfectly or not at all. This matter of the acquaintance of the diplomatist abroad with languages other than his own, especially with the ready employment of French in ordinary conversation, is of so great importance that it very decidedly enlarges or curtails the field of his influence and the consequent ability upon his part to represent his country efficiently or to serve his government

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well; for it is the social intercourse with his own colleagues in the diplomatic corps, with the people at the court or the distinguished citizens and statesmen of the country to which he is accredited through which he obtains, more than in any other manner, the information that is useful to him or his government as to the political news of the day, the public opinion upon specific questions, the policies of foreign administrations, or the adoption or rejection of measures which interest, affect, or possibly even control the decisions of his own government in regard to the subjects of trade, commerce, or international relations.

So also the rules and usages as between members of the diplomatic corps stationed at the same post have come by universal consent to be as well defined in many of their details as are the more general and more ceremonious relations of purely official life. It is always understood that the newly-arrived representative must call upon his colleagues personally as soon as he has presented his letters of credence to the chief of state, and if he is a chief of mission of less than ambassadorial rank he must make a request in writing, addressed to each ambassador, that a time may be fixed when it will be agree-

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able for him to make his visit for the purpose of presenting himself and paying officially his respects. At many courts of Europe the members of the diplomatic corps resemble in some respects a large family with community of interests and common meeting grounds that frequently bring them together, each bent upon the same errand in the service of his own government. The celebration of the name days, birthdays, and public anniversaries of the various sovereigns and their families are each taken careful notice of as they pass, and the occurrence of a misfortune or public disaster in any country will bring to the door of the legation or embassy of that nation the representatives of all the civilized countries of the world to communicate sympathy or express sorrow.

In one particular the general character of a diplomatic officer's responsibility abroad has been essentially changed, from what it was in former times, by the modern system of intercourse and the greatly-increased facilities of communication by which he is enabled to receive and carry out instructions whilst remaining in uninterrupted contact with his official superiors in the Department of State at home. A century ago it required a long time for dispatches to

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reach a distant post even when they were sent forward by the most expeditious route through the hand of a special messenger, who, travelling night and day, could still go no faster than a sailing ship or a saddle horse or a canal boat or stage coach could carry him. Even as late as 1837 we find Mr. Dallas making a memorandum in his notebook of the news which he had just received in St. Petersburg, where he was minister, relating to events which had taken place in America a month before, and then the intelligence had come to him through a newspaper printed in France. The conditions of the time implied a complete isolation in which a minister was often forced, for lack of opportunities to consult his chief at home, to assume a certain degree of personal responsibility and take steps upon important occasions from his own initiative. Sixty years later a telegram from St. Petersburg to Washington making an inquiry or asking for instructions upon a specific subject would be answered by a telegram in reply at latest on the following day. Upon one occasion during the Spanish war a telegram from Vienna to Washington upon an important question, which was sent one day about three o'clock in the afternoon, was followed by the answer of the Secretary of State

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received the same evening between eight o'clock and nine.

It has been said at times that this change has made a great deal of difference in the requirements by which one is to judge of the capacity of a foreign envoy to-day; that, whilst his ancestor was a man upon whom the grave responsibility often rested of determining by his own judgment the solution of problems in regard to which there was not time to consult his superiors, the modern representative may be almost said to be never beyond the earshot of the foreign office at home. To some extent it must be admitted, of course, that this is true; but the cases must each be judged by the circumstances which surround them. Under the old conditions the burden was undoubtedly upon the authorities at home to keep their agent abroad as fully informed as possible upon the fixed policy of the Government, what it aimed at and what it expected to accomplish, so that he might be prepared at a given moment to take a step without incurring the danger of running into a fault. This is not imperative to the same degree to-day, because if your agent has some doubt as to your policy or the fulfilment of your wishes he can ask you and you can tell him at once. But if the

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representative of a hundred years ago was subject to the delays of the time in consulting his government, so was everybody else subject to them in the things that related to him. The business of the world moved slowly, its volume was much smaller, the pace of its activity was gauged by that of the stage coach. The old diplomatist had immeasurably less to do than what we are accustomed to see now-a-days; whilst he was forced back occasionally to his own judgment and decision in regard to matters in which he had to be careful about committing his government, yet as a rule he was given the time necessary to receive instructions from home, and even if that caused considerable delay nobody else was able to move more quickly than he did.

He was almost universally a man of cultivation and scholarly attainments, informed as to the affairs of the world, in whom his own country reposed sufficient confidence to entrust him with the management of its interests abroad. Quite the same may be said of the diplomatic representative of to-day. He must above all else be a man of his time. The change in circumstances has not essentially changed the character of what is required of him; for if it is true that he has far greater facility in conducting his business,

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he has also a greatly-increased responsibility because of the larger amount of business that there is to transact and the privileges which modern facility has placed at his hand. In this respect we follow the general rule of life, that privileges carry with them obligations, and the more one is capable of doing the more one will be given to do. The field of modern diplomacy has taken an immensely wider range, it has stretched far beyond the smaller subjects and local interests of early days; in the scheme of its present activity are questions of the world's policy, the world's commerce, the trade of the Atlantic and the Pacific, the development of China, and, in our own service, the extension of American industry by the opening of new opportunities to our growing manufactures in the remotest parts of the globe.

As the old subjects of predatory war and land conquest retire from the foreground of history,—for people are not engaged now-a-days in taking away each other's territory,—the rivalry of nations has transferred itself largely to the acquirement of commercial outlets, to the conquest of markets for the disposal and consumption of the products of home industry upon which is built up the wealth of the people. America has more interest in these things

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than ever before; her relations abroad are more extensive than they ever were, and her rapidly-increasing importance as a World Power gives her each year a greater authority in foreign affairs, in aiding to form the policy of the Far East, in sustaining the provisions of international law everywhere, in composing international difficulties by arbitration, in helping to maintain the peace of the world.

All these subjects and many more come within the activity of the diplomatic representatives of the country abroad. Their dispatches and their miscellaneous correspondence, addressed to the Secretary of State at Washington, inform the Government as to the political and important commercial movements, or the trend of public opinion in regard to the great questions of the moment in other parts of the world; and it may be upon their reports, which enable the Federal authorities at home to see through their eyes or to reach decisions based upon their judgment, that the Secretary of State, even the President himself, may rely in communicating to Congress the recommendations which he has decided to make in regard to the foreign policy of the United States Government in the interest of the nation.

It is evident that the men selected to fill these

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posts of responsibility should be of the ablest whom the country affords, the best available citizens who have had sufficient experience in life to enable them to reach conclusions and form judgments worth consideration in the management of affairs at home; Americans of the type of men to whom we are accustomed to look in all our communities for local counsel or advice, whose opinions we should be willing to follow and who, if sent abroad, will actually represent this country in the proper sense of what representation implies. We must look largely to the Universities to supply them in the future, as indeed they have done heretofore; because the skilful management of public affairs as well as of those of the learned professions demands educated men. The ideal representative would be a man of affairs with a broad and liberal education. Whilst we have not advanced as yet to the establishment by law in this country of a diplomatic career, diplomacy is becoming a profession which offers an incentive to young men to prepare themselves even now, and the time will probably not be very distant when the rapidly-growing importance of the foreign relations of the American people will require that sort of skill

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upon the part of those to whom their management is entrusted which we insist upon at home in submitting any question for professional advice. It is very probable that this will come to be so much the case during the lifetime of many who are now young men that this country will then no more consent to intrust its diplomatic interests to the hands of those who have not the requisite qualifications than its people would take their cases to be tried before a judge who had never read law.

It is not meant by this, however, that a public minister abroad shall be only a man who has been trained to diplomacy from his youth, and that there shall be made a hard and fast rule by which other men of enlightenment and scholarship must necessarily be excluded; for, although it is agreed by all those who have had experience in the matter that the diplomatic service should be made a service, properly speaking, and that the men who enter it should have the certainty of promotion for merit and fulfilment of duty so as to make it an inducement to them to devote their best years to it, yet cases are sure to arise when, in order to fulfil an exceptional demand, and there are in the country certain

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men who have exceptional qualifications with which to meet particular international situations, it may be of conspicuous advantage to select such an one as chief of mission and send him abroad although he may not be professionally a diplomatist. In order to give elasticity and flexibility to its service it seems that the Government should reserve to itself the right to make such exceptional appointments when in the judgment of the President and the Secretary of State the public interests are best subserved by them. This is done by other nations which have an established diplomatic service but which occasionally select as representatives certain of their citizens distinguished in public or private life. We have notable examples of that kind of selection in the cases of our own Professor James Russell Lowell, of Mr. Choate, of Mr. Phelps, and of the very distinguished gentleman who represented Great Britain in Washington but lately (Lord Bryce),—two of these are counted amongst the foremost lawyers, and two amongst the greatest scholars of their time.

It would be a benefit to the country if young men should turn their minds to the cultivation of the class of studies which fit them for the service of the

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Government abroad, especially if they have any intention of devoting their lives, or part of their lives, to that. There can be no higher ambition than that of serving the State, nothing more creditable than to serve it *well*, and there are opportunities opening for those who choose to seize them. But preparation and fitness are the most important conditions precedent to success in diplomacy as in everything else in life.

SOME MODERN DEVELOPMENTS OF INTERNATIONAL LAW

READ BEFORE THE LAW ACADEMY OF PHILADELPHIA, MAY, 1909

It is of interest to consider International Law in its modern developments if we have in mind the effect which these enlargements and modifications of the principles which regulate intercourse have had upon the relations now existing between different peoples and men of different race, as well as the results produced by them upon the general progress of the world. Let us observe, at the outset, that what we know as International Law is not *law* in the proper sense in which we accept legal enactment; for, at most, it may be said to be law without authority, since there is no legislative or judicial authority recognized by all nations, which enacts or prescribes the fixed rules that govern the international relations between states. It is admitted by all writers that its origin is to be sought in the principles of justice which ought, at least, to control those relations. It is not positive law in the conception that positive law is prescribed by a recognized superior or sovereign to a person or persons who are subject to his control;

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but the authorities tell us that the rule concerning the conduct of sovereign states considered as related to each other is termed *law* by its analogy to positive law, being imposed upon nations or sovereigns, not by the positive command of a superior authority, but by opinions generally current among nations. The duties which it imposes are enforced by moral sanctions—by fear on the part of sovereigns of provoking general hostility and incurring its probable evils in case they should violate maxims generally received and respected.

And yet, there is scarcely any standard by which one may so accurately measure the actual progress of modern civilization, in the high ideals of equity and justice between nations, in the protection of the rights of individuals and communities, and the alleviation of suffering in war, as the acceptance of these rules of conduct and the immense difference between what the world was at their early beginning and what it is now.

Although certain ideas of fixed international relations may be traced into the period of antiquity and through the turmoil of the Middle Ages, yet the custom remained for one nation habitually to treat another, especially a conquered nation, with

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great ferocity; war was waged with merciless cruelty, prisoners were mutilated and burned alive, towns sacked and their population subjected to the most detestable insults, whilst, even during the seventeenth century, in the progress of the Thirty Years War, whole districts of Europe were turned into waste by being overrun with wanton devastation from which some of them have scarcely yet entirely recovered. When a place was taken by storm it was given over to pillage and unbridled license which spared no one and knew no rights upon the part of those whose lives and property fell under the domination of the sword; the contemplation of which led Hobbes to declare that by nature man was an anti-social animal, who fought and bit and devoured his fellows.

The world owes it to a single man that, in the midst of this lawless disorder, human thought should have been turned in a new direction, nations should have been taught to recognize and consider the existence of other nations, and lawyers, soldiers, and statesmen suddenly to become aware that an end should be put to the barbarity of warfare, whilst war itself was not to be entered upon for pretexts that were neither worthy nor sincere. This man was

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Grotius. Unlike Hobbes, he declared: "There is a law to govern this"; when he looked on, he said: "I saw prevailing throughout the Christian world a license in making war of which even barbarous nations would have been ashamed; recourse being made to arms for slight reasons or no reason; and when arms were once taken up, all reverence for divine and human law was thrown away, just as if men were henceforth authorized to commit all crimes without restraint."

It is impossible to attempt here an account of all the theory and the reasoning of this famous scholar, or of the numerous writers of his time as well as the succeeding authors who have contributed by their reflections to elaborate the plan of what we know to-day as International Law, for it would require many volumes to do that; but we make mention of Grotius because he was the leader of them all,—he may fairly be called the father of International Law. The measure of progress is to be gauged, as well as the benefit to mankind, by the changes that have taken place from his time to our own. Huig van Groot, or Hugo Grotius, as he has been generally known, was a Dutchman, born at Delft in the year 1583. He was the son of a lawyer from whom he

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probably inherited some of his reasoning power and his devotion especially to the solution of legal and philosophical problems. He was remarkable as a scholar even in his youth, and, having already distinguished himself whilst still a very young man, he was given a position in the public service. But as the early part of his life was spent amidst the scenes of the struggle between the Netherlands and Spain, and he having taken part in the political disputes of the day, he was arrested by order of Prince Maurice of Nassau and the States General, in 1618, and was condemned to imprisonment for life. At the end of three years, however, he was able to escape and make his way to France, where he lived in comparative poverty, devoting himself to the study of his favorite subject of the rights and duties of nations; and it was in the year 1625, whilst he was in exile in Paris, that he published his famous book, which he called: "De Jure Belli ac Pacis." Its effect was instantaneous upon the minds of his contemporaries, amongst whom it awakened universal attention. It is said that Gustavus Adolphus carried a copy of it with him in his campaigns. It has been named the *Magna Charta* of International Law, and is admitted by scholars to be one of the few books which

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have altered the history of the world, for the cruel customs of warfare which were followed at the time when he wrote it were quickly changed to meet the humane teaching of his thought, and it was said that the difference between the conduct of troops and commanders in the Thirty Years War, when Grotius first announced his doctrine, and in the war of the Spanish Succession, half a century later, was like the difference between darkness and light. The influence of Grotius was felt as the motive power in the peace of Westphalia, which brought the Thirty Years War to an end in 1648, and has been described as his triumph in the first of that series of great public instruments which have regulated the state-system of Europe down to our own time.

The ground principle of the reasoning of Grotius was that there is a law of nature which ought to govern the acts of men, and to which men ought to pay obedience in their dealings with one another; that man is a being possessed of a social and rational nature, and consequently able to discern what is conformable to that nature. Natural law he held to be a rule of right reason, indicating that an act by its complying or disagreeing with human nature had in it a moral deformity or moral necessity, and was

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consequently forbidden or commanded by God, the author of nature. This law was immutable. God himself could not change it, any more than He could make twice two to be anything other than four. Human law might go beyond it to deal with matters which it did not touch, but could not contravene it. Owing to its intrinsic rightness it ruled the intercourse of nations as well as individuals; but, for the guidance of states in their relations with each other, there was, in addition to natural law, a voluntary law based upon the consent of all or most nations. This part of the international code could vary from time to time; but the other portion was not subject to change, since it was founded upon human nature itself. It was by calling the attention of the world to this great theory of the law of nature,—that things are right because God and nature have made them so,—that Grotius achieved his ultimate triumph.

“The principles of natural law,” he said, “if you attend to them rightly, are themselves patent and evident, almost in the same way as things which are perceived by the external senses.”

This led him by a very plain course of reasoning to the great political principle which he developed, namely, the independence of sovereign states. He

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threw over the old and no longer tenable theory of a temporal or spiritual head of Christendom. There was no common Superior, either Emperor or Pope, with a right to claim obedience from the nations. Each state was absolutely independent of any external human authority, and all were equal before the law which nature and common consent prescribed. This is the foundation upon which is built up the whole structure of modern International Law. When it appeared in the Peace of Westphalia, that treaty recognized for the first time the independence of each separate state, even within the boundaries of the empire; though Grotius had not the satisfaction of knowing this, for he had died in exile three years before, in 1645. The original theory of the law of nature has long ago disappeared before the analysis and searching discussions of modern jurists, and by the well-seasoned practice of modern times, but the great principles of national independence and state sovereignty still remain universally accepted, and the teachings of Grotius as to the principles of rights and duties have been definitely approved by general consent of the nations.

We touch but lightly upon the subject so full of interest with which we are occupying ourselves here,

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and we shall be obliged to content ourselves with remarking only the merest outlines of its development from this beginning, in the seventeenth century. Wars have taken place since then, plenty of them; nations have risen and fallen, boundary lines have changed or disappeared, alliances, treaties, and interventions have occurred, and what is called the balance of power has been established in Europe to maintain, in so far as possible, the equilibrium upon that continent; whilst the great republic of the West in which we live has risen up with enormous strength to protect the principles of individual liberty and equal justice to all throughout its own domain, and, by its declaration of the Monroe Doctrine, to assure to millions of people in this hemisphere the right to make their own laws, to govern themselves and to seek their own destiny as it is given them to understand it. In all this International Law plays its part, regarding, as it does, each state as a political unit possessing proprietary rights over definite portions of the earth's surface.

And we see that this principle runs through all the relations subsisting between different peoples which involve international rights. The first maxim resulting from it is, that every nation possesses and

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exercises exclusive sovereignty and jurisdiction throughout the full extent of its territory, and that every independent state is entitled to the exclusive power of legislation in respect to the personal rights and civil condition of its citizens, and in respect to all real and personal property situated within its territory, whether it belong to citizens or aliens. Consequently, every state possesses the power of regulating the conditions on which property within its territory may be held or transmitted; also of determining the capacity of all persons therein, as well as the validity of the contracts and other acts which arise there, and the rights and obligations which result from them.

And the second is: "That no state can, by its laws, directly affect, bind or regulate property beyond its own territory, or control persons who do not reside within it, whether they be native-born subjects or not."

This is a result of the first general principle; for a system which would recognize in any state the power of regulating persons or things beyond its territory, would exclude the equality of rights among different states and the exclusive sovereignty which belongs to each of them.

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From the principles thus announced, it follows that all the effect which foreign laws can have in the territory of a state depends upon the express consent of that state. A state is not obliged to allow the application of foreign laws within its territory, but may refuse absolutely to give them effect. But it may enforce this prohibition with regard to some of them only, and allow others to be operative in whole or in part.

The rules which were laid down by Huberus, one of the early authorities, which are still followed, are these:

- I. The laws of every state have force within the limits of that state, and bind all its subjects.
- II. All persons within the limits of a state are considered as subjects, whether their residence is permanent or temporary.
- III. By the comity of nations, whatever laws are carried into execution within the limits of a state are considered as having the same effect everywhere, so far as they do not occasion a prejudice to the rights of other states and their citizens.

In these we have the principles upon which all modern international intercourse is based. It must be remembered that in this connection all independent states are equal, no matter what may be the dif-

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ference in the extent of their territory or the weight of their actual power. Each is entitled to present its case with absolute confidence that its national individuality will be recognized and respected. An enormous advance has been made when all the people of the earth are looked upon as belonging to a family of nations, each upon the same footing with the rest, each entitled to appeal to International Law for the defence of its rights, the small states in the same manner as the great Powers: Switzerland, Denmark, Portugal, Norway, or the smallest South American republic standing in this respect alongside of Great Britain, Russia, Germany, France, and the United States of America. Dealing in this manner, the nations have not only found means through which concessions may be made to the demands of one another, and a limited effect may be given by mutual agreement to the statutes of the one within the jurisdiction of another,—as in the cases of extradition and naturalization,—but they have been enabled to come together in conference, and, each standing on its own basis, to unite by universal consent in certain binding obligations, as was done in the Geneva Convention of the Red Cross and the Conference at The Hague, the great triumph of International Law, the

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nearest approach to international legislation that the world has ever seen.

The perfect equality and absolute independence of sovereigns, and this common interest impelling them to intercourse, has given rise to a class of cases in which every sovereign is understood to waive the exercise of a part of that exclusive jurisdiction which is the attribute of every nation; for instance, the person of a foreign sovereign going into the territory of another state, is by general usage and comity of nations exempt from the ordinary local jurisdiction. Representing the power, dignity, and all the sovereign attributes of his own nation, and going into the territory of another, under the permission which is implied from the absence of any prohibition, he is not amenable to the civil or criminal jurisdiction of the country where he temporarily resides.

So, also, the person of an ambassador, or other public minister, whilst within the territory of the state to which he is accredited, is exempt from the local jurisdiction. His residence is considered as a continued residence in his own country, and he retains his national character, unmixed with that of the country where he locally resides.

The public jurists have been divided in their

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decisions as to how far one state may be obliged by International Law to surrender to another state an individual who is found within the territory of the former, and is accused of having committed a crime within the territory of the latter; and while it is still a debated question whether the surrender of fugitives, except under a treaty, is an absolute international duty, the weight of modern authority inclines toward treating this matter as an act of comity and not one of right. There is no rule of International Law commanding governments to return to one another fugitives from justice on demand from the country where the crime was committed. In our own country we have held that in the absence of a treaty there is no law which authorizes the President to deliver up any one charged with having committed a crime in the territory of a foreign nation,—or at least that there are grave doubts as to his right to do so. But yet our own course has not been uniform; the decisions of the earlier Secretaries of State were strongly against it; Mr. Monroe having declared, in 1814, that: “Offenders, even conspirators, cannot be pursued by one power into the territory of another, nor are they delivered up by the latter except in compliance with treaties, or by favor,” though a case

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occurred, in 1864, in which a different view was taken by Mr. Seward in relation to one Arguelles, the Governor of a district in Cuba, who had sold into slavery a number of negroes taken from a captured slave-trader and liberated. Arguelles escaped and fled to the United States and was afterwards surrendered by us to the Spanish Government, although we had no extradition treaty with Spain. In reply to an inquiry made into this case by the Senate of the United States, which was submitted to the Senate by President Lincoln, Mr. Seward said:

“There being no treaty of extradition between the United States and Spain, nor any act of Congress directing how fugitives from justice in Spanish dominions shall be delivered up, the extradition is understood by this Department to have been made in virtue of the law of nations and the Constitution of the United States.”

It may be said now, however, that a long and almost unbroken course of decisions has established it as a rule of executive action not to grant the surrender of fugitive criminals except in pursuance of a treaty.

In point of fact, we have now treaties of extradition with almost all the important Powers, in which

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provision is made for the due surrender of a fugitive criminal, and an enumeration is made of the crimes for the commission of which such surrender shall take place. Reasonable *prima facie* evidence of the guilt of the accused is almost invariably insisted upon, and while the extraditing state does not claim to try the accused parties and find them guilty, it requires sufficient evidence to satisfy its own tribunals that the cases are genuine and ought to be tried. Almost all the extradition treaties between the United States and other countries contain the following sentence: "Neither of the contracting parties shall be bound to deliver up its own citizens under the stipulations of this treaty." And a condition introduced into recent treaties is, that the individual demanded shall not be tried for any offence, committed prior to his surrender, other than the crime for which he is extradited, until he has been liberated and has had time to leave the country, which is embodied in our treaty with Great Britain entered into in 1890.

The Government of the United States would not under any circumstances deliver up a fugitive who had sought asylum in our country, whose extradition might be demanded upon the ground of his having committed a political offence abroad.

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Another class of cases arising out of the precepts of International Law, which concern the relations of independent sovereign states, is that of naturalized subjects and citizens, involving in general the right of expatriation and the consequent right of the citizen of one country to leave it and acquire citizenship in another country by means of naturalization. To the development of this right and to its general recognition, the United States have contributed more than any other country in the world.

We began very early in our national existence to insist that an alien should have the right to renounce his allegiance to his native land if he chose to do so, and, upon coming to the United States, to acquire American citizenship in conformity with the provisions of our statutes. We came into conflict at once with the old doctrine of inalienable allegiance which obtained almost universally, that a man was bound throughout his life to maintain allegiance to the land in which he was born; no act of his could ever change it, for the maxim ran: "*Nemo potest exuere patriam*," and one of the chief causes of the war between the United States and Great Britain in 1812 lay in the tenacity with which England held to this doctrine.

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British cruisers took from American vessels on the high seas naturalized American citizens and impressed them into her navy, on the ground that they were British subjects by birth and that no forms gone through with in America could divest them of their British nationality.

Lord Granville had stated this doctrine as early as 1797, as follows:

“No British subject can, by such a form of renunciation as that which is prescribed in the American law of naturalization, divest himself of his allegiance to his Sovereign. Such a declaration of renunciation made by any of the King’s subjects would, instead of operating as a protection to them, be considered an act highly criminal on their part.”

But Mr. Monroe wrote to the British Minister in Washington, in 1812:

“It is impossible for the United States to discriminate between their native and naturalized citizens.”

And some forty years later Mr. Seward adhered to the principle of our Government:

“That it is the right of every human being, who is neither convicted nor accused of crime, to renounce his home and native allegiance and seek a new home and transfer his allegiance to

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any other nation that he may choose; and that, having made and perfected that choice in good faith, and still adhering to it in good faith, he shall be entitled from his new Sovereign to the same protection under the laws of nations that that Sovereign lawfully extends to his native subjects or citizens."

A famous case arose during the administration of President Pierce which brought us into momentary disagreement with Austria-Hungary, and is interesting because it illustrates the development of our theory to the utmost limit to which it has ever been carried, especially in view of the fact that the individual concerned, whilst he had declared his intention to become an American citizen, had not actually completed his naturalization under the terms of the statute.

Martin Koszta, a Hungarian by birth, came to this country in 1850, and, after having been here a short time, declared his intention in due form of law to become an American citizen. At the end of about two years, however, he left the United States and went to Turkey, taking up his residence in Smyrna. Whilst he was there his presence became known to the Austrian consul at that port, and as there chanced to be an Austrian man-of-war in the harbor,

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Koszta was seized by order of her captain, to whom the consul had addressed himself, and taken aboard the ship where he was confined in irons with the avowed purpose of taking him back to Austrian territory. In the meantime efforts were made for his release, both by the United States consul at Smyrna and the American legation at Constantinople, but to no purpose, for the Austrians declared that they had got their man and they intended to keep him.

Just at this moment it happened that Captain Ingraham, of the United States navy, came into the harbor of Smyrna with his ship, the man-of-war *Saint Louis*, and was appealed to immediately in behalf of the prisoner by our consul. After having inquired into the circumstances of the case, the captain came to the conclusion that Koszta was entitled to the protection of our Government, and he decided to give it to him. He asked the Austrian commander to release him, but was met by the same answer that had been given to our diplomatic and consular representatives, a denial of our right to make such a demand, and a determined refusal to give up one of their prisoners at our request. Thereupon Ingraham cleared his decks for action and sent word to the Austrian that if he did not set Koszta at liberty he would blow

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up his ship. The Austrian captain yielded to this summons, and an agreement was reached under which Koszta was transferred to the custody of the consul-general of France at Smyrna, to remain there until he should be disposed of by the mutual agreement of the consuls of the respective governments at that place. He was ultimately released and came back to the United States.

In his annual Message to Congress, in 1853, the President referred to the case as follows:

“Regarding Koszta as still his subject, and claiming a right to seize him within the limits of the Turkish Empire, the Emperor of Austria has made the conduct of our officers who took part in this transaction a subject of grave complaint, he has demanded of this Government its consent to the surrender of the prisoner, a disavowal of the acts of its agents, and satisfaction for the alleged outrage. After a careful consideration of the case, I came to the conclusion that Koszta was seized without legal authority at Smyrna; that he was wrongfully detained on board the Austrian brig-of-war; that at the time of his seizure he was clothed with the nationality of the United States, and that the acts of our officers were justifiable, and their conduct has been fully approved by me, and a compliance with the several demands of the Emperor of Austria has been declined.”

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This case illustrates the extreme jealousy with which the United States Government has always protected, and still protects, the privileges conferred by American citizenship, whether it be acquired by birth or through the form of naturalization. It is now the accepted rule of the Department of State that a mere declaration of intention does not carry with it the rights of citizenship or so clothe the individual with the nationality of this country as to enable him to return to his native land without being subject to the laws thereof; though Koszta was seized and imprisoned in a foreign country, not that of his origin, and it is held that when the party making the declaration has acquired a domicile in this country the Government of the United States will protect him in all the rights which the law of nations attaches to domicile.¹³

It is probable that it is in connection with this

¹³ Mr. Bayard, Secretary of State, in commenting upon this case, in 1885, said: "The criterion by which Koszta's case is to be measured in examining questions arising with respect to aliens who have declared, but not lawfully perfected, their intention to become citizens of the United States, is very simple.

"When the party, after such declaration, evidences his intent to perfect the process of naturalization by continued residence in the United States as required by law, this Government holds that it has a right to remonstrate against any act of the Government of *original*

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question of naturalization and the right of expatriation, that the influence of the United States has made itself more strongly felt abroad, and has done more to mould public opinion, than in any other matter of legal discussion with other governments, or in the general development of the principles of International Law, in which we have taken part.

The correspondence of the Department of State relating to it fills many volumes, in the course of which an elaborate system of procedure has been constructed, under which the official representatives of our Government in every country of the world are to-day safeguarding the rights and privileges of American citizens, not only those who are natural-born, but those also who have come to us and have adopted our country as theirs. Usage has tempered everywhere the old doctrine of inalienable allegiance, so that even England recognized, by her Naturaliza-

allegiance whereby the perfection of his American citizenship may be prevented by force, and original jurisdiction over the individual reasserted. Koszta was resident in the United States, and his absence was that of temporary character, *amino revertendi*, which does not conflict with the continuity of residence required by the statute. Koszta was arrested by the authorities of Austria in the dominions of a third state."

Mr. Bayard, Secretary of State to Mr. Mackey, August 5, 1885. Wharton's Int. Law Digest, ii, 359.

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tion Act of 1870, the right of British subjects to become naturalized and to acquire citizenship abroad; whilst upon our part we have entered into treaties with her and with most of the countries of Europe, by which this right is reciprocally extended to their nationals and ours.

It is curious to note, however, as a matter of history, that in our eagerness to assert and enforce our theories upon the subject of the right of alienable allegiance in connection with foreigners from all countries of the globe, it did not occur to us to inquire whether we accorded this right to our own citizens or not; indeed, when the question presented itself to the Supreme Court, not one of the judges affirmed, while several denied, the right as applicable to citizens of the United States. It was found that in point of law, we ourselves were living under the old maxim,—*nemo potest exuere patriam*. Therefore Congress enacted a law, in the year 1868, which declares that:

“The right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the right of life, liberty, and the pursuit of happiness”; and it prescribes that: “any declaration, instruction, opinion, order, or decision of any officer of this Govern-

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ment which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this Government."

The foremost service which International Law has rendered to mankind in general, and its most important contribution to civilization as well as to the peace of the world, which is properly to be mentioned in our theme as its modern development, is the impulse which it has given to the different nations of the world to consult each other upon questions which have an import touching the interests of all; as also the manner in which it has pointed out the way for them to reach agreements, and to lay down for themselves rules of conduct tending toward the preservation of right and the maintenance of reason in their international dealings; and since, in the nature of man and through his innate cupidity, his ceaseless jealousy, his unconquerable ambition, war has thus far been found to be inevitable in the world, it has taught that at least human misery may be avoided and, in so far as the case admits, the horrors of war may be attenuated, the rights of belligerents and neutrals defined and their property saved from unrighteous seizure or wanton destruction. This

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achievement is exemplified in the International Conferences that have taken place with considerable frequency, as necessity arose, in the various capitals of Europe, and which one may look upon as the chief ornament of an enlightened civilization during the last hundred years.

We are not concerned here to discuss them or even to refer to them all, but merely make mention of one or two which have left a lasting impress upon the conduct of men and changed the current of thought throughout the world by the voluntary action of the nations themselves.

The progress of civilization has tended slowly to mitigate the severity of war on land, but it still remained, at the middle of the nineteenth century, unrestricted in regard to war at sea. The difference in the effect of the laws of war on land and on sea was currently justified by people up to that time by alleging the usage which considered private property, when captured in cities taken by storm, as booty; and the well-known fact that contributions are levied upon territories occupied by a hostile army, and that as the object of war by land is conquest or the acquisition of territory, the victor naturally restrains himself from the exercise of his extreme

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right, nor would he destroy property which had come into his possession or over which he was subsequently to have control. But it was held that the object of maritime war is the destruction of the enemy's commerce, of the merchandise embarked in his ships at sea, which is a part of his strength, the sources and sinews of his naval power. In the midst of this condition of things, the Great Powers of Europe called together a congress of nations, which met at Paris in 1856, in which it was decided that as the Maritime Law, in time of war, had long been the subject of deplorable dispute, and the uncertainty of the law and the duties in such matters gave rise to differences of opinion between neutrals and belligerents which might lead to conflicts, it would be advantageous consequently to establish a uniform doctrine in regard to it and to introduce into international relations fixed principles in this respect. The nations represented at this Conference were Great Britain, Austria, France, Prussia, Russia, Sardinia, and Turkey, whose plenipotentiaries issued, on the fifteenth of April, 1856, what is known as the Declaration of Paris, as follows:

1. Privateering is, and remains, abolished.
2. The neutral flag covers enemy's goods, with the exception of contraband of war.

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3. Neutral goods, with the exception of contraband of war, are not liable to capture under enemy's flag.
4. Blockades, in order to be binding, must be effective, that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy.

This formulation of principles has become the rule of the sea, which now-a-days is generally accepted as a law by the civilized nations. The United States have never formally adhered to it; though there can be no doubt that our Government accepts its principles, for, at the breaking out of the Spanish war, President McKinley addressed to the Great Powers of the world an official announcement that this country adhered to the principles of the Declaration of Paris during the continuance of the war with Spain.

With the same general end in view, though with a somewhat more humane immediate purpose, the nations of the world assembled by their duly-accredited representatives, at Geneva, in Switzerland, in the year 1864, to formulate a plan by which to temper, in so far as it might be possible to do so, the evils that are inseparable from war, to prevent unnecessary suffering and to ameliorate the condition of wounded

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soldiers lying on the field of battle. Up to that time no fixed, concerted international action in this respect had been agreed upon; and the deliberations of the conference, which were ultimately adhered to by all the important governments in the world, among them our own, were followed with the deepest interest; the conclusions reached by it were hailed as an extraordinary indication of the growing sentiment amongst all peoples, of the noblest human sympathy and of their respect for international agreements. At the end of its session, the conference announced the results of its deliberations by a declaration consisting of ten Articles, which has since become famous under the name of the Geneva Convention.

With the lapse of years it was discovered by experience, however, that whilst this initial agreement had proved itself to be a great benefit to mankind, and had served to a notable degree to relieve the sufferings of war, proving its usefulness beyond a question, yet there were certain defects in it which ought to be corrected, as well as certain modifications to be made, which had suggested themselves in the course of its practical application to war.

Therefore, the President of Switzerland, acting in the name of the Swiss Confederation, invited the

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Governments of the world to send their representatives to Geneva again to a conference that should be held for the purpose of revising the Convention of 1864.

This second conference assembled at Geneva in June, 1906, and was composed of the delegations from thirty-six different Governments, in all parts of the globe. Its deliberations, which were carried on with great earnestness and with a complete devotion to the subject which had brought all these people of such varied nationalities together, extended over a period of about four weeks, and in the end were productive of a new Geneva Convention for the alleviation of the sufferings of sick and wounded soldiers during the course of active military operations in the field. In this Agreement, signed by all the delegations, amongst whom were included those of the United States Government, the ten Articles of the old Convention of 1864 were enlarged and extended into a series of 33 new Articles, which have now been accepted as the rules of war in so far as the sick and wounded are concerned, and they may be said to be clothed with the authority of universal law. It provides that the sick and wounded are to be respected and cared for, without regard to nationality, by the

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belligerent in whose hands they may happen to be; that all persons attached to the service of the sick and wounded, as well as all their materials, buildings, and equipment, shall be exempt from capture, and that they themselves shall not be made prisoners of war. Provision is made in minute detail for the relief and the prevention of suffering; and, as a compliment to Switzerland, the emblem adopted for this great work of humanity was taken from the Swiss national colors, made into a red cross on a white ground,—whence comes the designation so generally known as the service of the Red Cross.

But no concerted action of the nations has ever equalled, indeed it might be said has ever approached, in its momentous importance or its far-reaching effect upon the destiny of mankind, that of the Peace Conference at The Hague. We may not discuss it here in detail, or do more than mention in passing some of its principal achievements; for it is a subject so large that, in order to consider it seriously, it must be taken up quite by itself.

It was the Emperor of Russia who conceived this great plan intended to lead the nations into the paths of peace, and it was with unfeigned surprise that the Cabinets of Europe and America received, in

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1898, from the most powerful military autocrat of the time, a communication which announced that:

“The maintenance of general peace, and a possible reduction of the excessive armaments which weigh upon all nations, present themselves in the existing condition of the whole world, as the ideal toward which the endeavors of all Governments should be directed;” also that: “In the conviction that this lofty aim is in conformity with the most essential interests and the legitimate views of all Powers, the Imperial Government thinks that the present moment would be very favorable for seeking, by means of international discussion, the most effectual method of insuring to all peoples the benefits of a real and durable peace, and, above all, of putting an end to the progressive development of the present armaments.”

This letter was addressed to all the governments which had representatives accredited in St. Petersburg to the Russian Court, with the proposal that they should agree to a conference which should occupy itself with this grave problem.

It was considered advisable that the conference should not sit in the capital of one of the Great Powers, where so many political interests are centred, which might impede the progress of the work; but, as the Queen of Holland had expressed her

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assent that the conference should be held in her residential city, the invitations were sent out by the Dutch Minister of State from a list furnished by the Russian foreign office, requesting the delegates to assemble at The Hague. The invitation was responded to by twenty-six Governments, including our own, whose representatives met at The Hague in May, 1899, and continued in session until the end of the month of July; the delegates from the United States being: Hon. Andrew D. White; Hon. Seth Low; Hon. Stanford Newel; Captain Mahan, of the United States Navy; Captain William Crozier, of the United States Army, and Mr. Frederick H. Holls, of New York. The discussions were chiefly concerned with a programme prepared beforehand and submitted by the Russian Government, which covered a wide range of subjects, all more or less directly bearing upon the proposal of the Emperor for securing the most effectual means of insuring to all peoples the benefits of peace.

The conference did not find its way free from obstacles, nor that all stumbling blocks could be removed at once. It did not accomplish all that was hoped for; it did not succeed even in reducing the excessive armaments that weigh upon all nations,

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which was one of the chief objects of the Emperor's first announcement to the nations; but it did much that benefits mankind. It established the right of nations to offer their good offices and their mediation, without having such an offer or such mediation considered as an unfriendly act; it provided for a commission of inquiry, to ascertain the facts of an international dispute in order that the facts may be impartially ascertained by a commission made up of neutrals as well as nationals.

It provided for a court of international arbitration, to which nations might appeal as litigants, where their causes might be heard and adjudicated by the ripe intelligence of men learned in the law, instead of turning in the heat of passion immediately to the arbitrament of war; it drew up a code of regulations respecting the law and customs of war on land; it extended the rule of the Geneva Convention to warfare at sea, so that aid might be given to wounded and shipwrecked sailors, and hospital ships be exempt from capture in the same way that the ambulance service of the armies is exempted on land. The contracting Powers agreed to prohibit, for a term of five years, the launching of projectiles and explosives from balloons, and to abstain from the

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use of projectiles the object of which is the diffusion of asphyxiating gases. They agreed also to abstain from the use of bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core, or is pierced with incisions.

This notable concert of nations made an epoch in the history of the world; for it opened the way to relations of amity between peoples of different race whose differences of self-interest and ambition might lead them into conflict; it taught men that the precepts of reason and justice and equity, if appealed to, may often lead them into paths away from the cruelty, suffering, devastation and horrors of war which had inflicted themselves upon humanity for ages.

It did not abolish war, indeed, for, by a strange move of destiny, it was Russia herself who was forced into a deadly struggle when the conflict broke out a short time later between her and Japan.

Yet the Emperor Nicholas, far from abandoning the magnanimous spirit with which he had first addressed the nations in 1898, issued another invitation in 1906, requesting them to meet a second time at The Hague, in order that certain improvements should be made in the Convention relative to the peaceful

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adjustment of international disputes, by which the labors of the first conference might be perfected through the effect of the regular progress of enlightenment among the nations and in accord with the results acquired from experience.

The second conference, which met at The Hague in 1907, whose deliberations extended over a period of four months, in which a very distinguished delegation from the United States, headed by Mr. Choate, General Horace Porter, and Judge Uriah M. Rose, took a foremost part and contributed decisively to the conclusions arrived at by it, was one of far wider influence as a national congress than its predecessor; for, whilst the invitations had been received and accepted, in 1899, by the twenty-six governments having diplomatic representatives accredited to the Court of St. Petersburg, delegates were present upon this occasion from forty-four independent sovereign states, among which were the Republics of South and Central America, who had not been present before. So, also, the work of this conference was broader and more extensive in the results attained by it. They were built up on the foundation which had then been laid, and they were fortified by the assurance now definitely won, that nations may unite in

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legislation which affects them all, and by the results of the practical application of those principles already established.

The conference enlarged the commission of inquiry into international disputes; it agreed upon a convention restricting the use of military and naval force for the recovery of contract debts; it fixed the principle that hostilities shall not commence without notice, either a formal declaration of war or an ultimatum in the nature of a declaration of conditional war, in order that belligerents may be protected from surprise or bad faith; it regulated the placing of submarine automatic mines; it forbade the bombardment by naval forces of undefended harbors, villages and towns; it laid the ground work for an international court of prize, and while providing for a third conference at the end of eight years, it extended until the close of the third conference the prohibition of the launching from balloons of projectiles and explosives.¹⁴

Its foremost achievement, however, was to establish, without altering the status of the Permanent Court of Arbitration, a new tribunal to be called a Judicial Arbitration Court, of easy access, com-

¹⁴ This convention was not signed by France, Germany or Russia.

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posed of judges representing the various judicial systems of the world, and capable of ensuring continuity in jurisprudence of arbitration. This Court is composed of judges chosen from persons of high moral reputation, and all fulfilling conditions that qualify them in their respective countries to occupy high legal posts, or jurists of recognized competence in matters of International Law.

These are some of the benefits conferred by the development of International Law upon mankind. When we contemplate its immediate effects upon human society, when we recall the condition of the world that Grotius looked upon in his century, the spectacle of pillage and vengeance, and brutality and rage, we shall accept it, indeed, as one of the foundation stones of modern civilization.

The world can now never go back—it must necessarily go forward; and if its progress is not always rapid or its highway smooth, yet we all push on with our tasks. It was said by M. Nelidoff, the veteran of Russian diplomacy, at the Conference at The Hague:

“Let us not be too ambitious. Let us not forget that our means of action are limited; that nations are living beings as truly as are the individuals who compose them; that they

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have the same passions, the same aspirations, the same defects, the same illusions. But let not that discourage us from dreaming of the ideal of a universal peace and brotherhood of peoples, which are after all only the natural and higher aspirations of the human soul. Is not the essential condition of all progress the pursuit of an ideal toward which one always strives without ever being able to attain it? Excelsior is the motto of progress. Let us then take up bravely the work before us, having as the light of our path the luminous star of peace and justice, to which we shall never attain, but which will lead us always toward the welfare of humanity."

LORD CORNWALLIS IN AMERICA

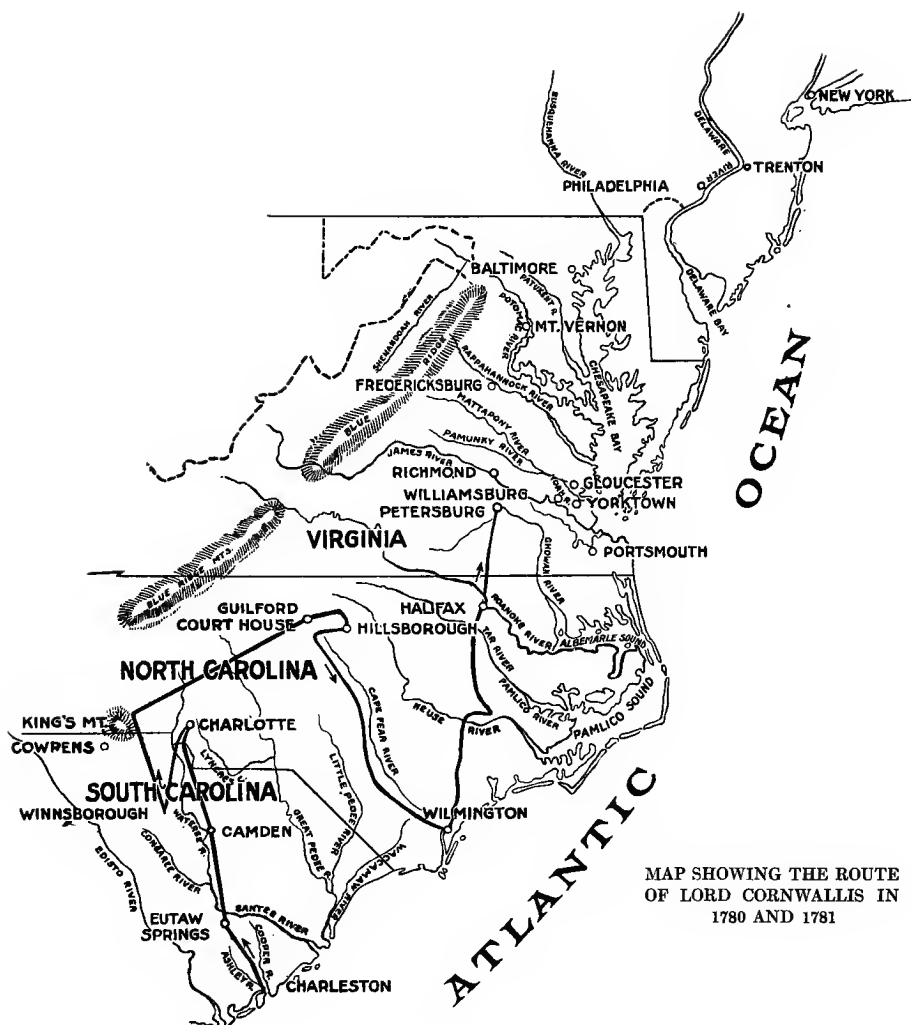
WE shall call attention in this paper to some details in the career of a distinguished soldier and statesman, the early friend of America, the most earnest and the ablest of the British generals who supported the cause of the King during the American Revolution; the man whose name more than any other of his time is linked with British defeat and the downfall of British authority in this country, whose capture by General Washington at Yorktown will always stand forth in the annals of our people as the brilliant achievement by which liberty was definitively established in the United States: Lieutenant General the Earl Cornwallis.

This man, who at the breaking out of the American war was about thirty-seven years of age, was already a soldier of experience, having seen service on the European Continent during the Seven Years War, and one for whom the profession of arms had an attraction which amounted to enthusiasm. He was devoted to it from his earliest youth; his voluminous writings which are still preserved show that at several periods of his life he readily sacrificed to

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it the personal comfort which his rank and station would have enabled him to enjoy in England, he followed it in the fulfilment of a duty when he came to fight in America, evidently against his inclination, for his political convictions were strongly opposed to the ministry in its treatment of the Colonies. In spite of this, however, he performed his duty as a soldier with zeal and determination, and he was undoubtedly the most dangerous antagonist with whom our forefathers had to contend throughout the War of Independence,—for there is no doubt whatever that he tried to win. He met with humiliation and defeat in this country, though afterwards, in the course of a long and active life, he was able to win honor and glory for himself in other fields, and by the uprightness of his personal character he ever retained the respect of his countrymen.

The family of Cornwallis was of very ancient origin and had acquired considerable importance in Ireland, whence the founder of the English branch of the house went to London about a hundred years before the discovery of America. From him descended a long line represented by men distinguished in every profession and in the service of the State: clergymen, lawyers, soldiers, sailors, who won honors



MAP SHOWING THE ROUTE
OF LORD CORNWALLIS IN
1780 AND 1781

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and titles for the family and who were connected by intermarriage with many of the most influential houses in the Kingdom, until we reach the father of the general of whom we are treating here. He was Charles, fifth Lord and first Earl Cornwallis, who married Elizabeth, daughter of Viscount Townsend, by whom he had four sons and five daughters. Of these the Earl Cornwallis of Yorktown fame was the sixth child, but the oldest son; and therefore inherited the family estates and titles. He was born in Grosvenor Square, in London, on the 31st of December, 1738, and as soon as he was old enough to go to school he was sent to Eton to begin his education. Whilst he was there he received a blow in playing hockey which injured one eye, not sufficiently to destroy the vision but to leave a slight permanent obliquity. The boy who accidentally caused this injury was Shute Barrington, afterwards the highly-esteemed Bishop of Durham. Young Cornwallis, who at this time was called Viscount Brome (a courtesy title borne by the eldest son in the family of the Earls Cornwallis), after a short period spent in the University of Cambridge chose the army as his profession before he was eighteen years of age, and received his commission as Ensign

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in the First Regiment of the Guards, later the Grenadiers. Anxious to prepare himself for a career in which his heart was now enlisted, Lord Brome asked permission of the King to go abroad to study at some foreign military academy; for the science of arms was not as thoroughly taught at that period in England as in other European countries, and it was customary for young Englishmen to prepare themselves for the army by spending a year or two at a school upon the Continent. Having obtained the requisite leave, young Brome was sent by his father, under the charge of an older man, a Prussian officer, to the military academy of Turin, which was then held in high estimation. The letters which passed between the young man and his father show the tender solicitude with which the latter watched over the progress of his boy and the affectionate interest which he gave to the details of his health and education. The Prussian captain wrote from Turin to Lord Cornwallis immediately upon their arrival at that Court, and a few days later he added an account of the school with the daily routine of the young men being educated there which, after the lapse of more than a hundred and fifty years, is interesting to read as an example of the customs and manners of

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the times. "I had the honor to write you at the same time with Lord Brome," he says, "to tell you of our safe arrival and of his intention to enter the academy, which we were not able, however, to carry out until after having been presented to the King and the royal family, an incident which always requires a certain time, by reason of the ceremonial. Lord Brome, as the son of an English Peer, was kindly received by the King as well as by the Princes and Princesses. We then made our entrance to the academy, which is in an excellent state of discipline. The King will not allow the least disorder to take place, and the students are required to attend all the exercises. The rooms are fairly good and the table is excellent; the students all dine together, with the Governor and the Lieutenant Governor, with great order and decency. The dinner is at a quarter past twelve, when each one comes to the table with a good appetite on account of the exercises which he has performed during the morning." He gives us also a curious account of the daily life of a student at the academy, as follows: At seven o'clock in the morning there was a public dancing lesson; at eight Lord Brome had an hour with his German teacher; from nine to eleven the riding school, every day except Thursday; at

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eleven o'clock a private fencing lesson; at three a private lesson in mathematics and fortification; and at five a private dancing lesson. After that came visits, the opera, and last of all the supper. It may fairly be doubted whether this curriculum would meet very many of the requirements of the war college as we understand that term to-day; but as the academy at Turin was one of the foremost in Europe it probably fulfilled the demands made of it at the time.

After having finished his course at Turin, Lord Brome and his companion visited several of the German Courts in order that he might have the advantage of travel and of observation among people whose customs were new to him, and we find him shortly afterwards serving upon the staff of the British commander, Lord Granby, in the operations carried on in Germany during the Seven Years War. He took part as a staff officer in the battle of Minden and in the other actions in which his commander was engaged, and during the year 1761, when he had been promoted to the Lieutenant-Colonelcy of the Twelfth Regiment, he fought repeatedly at the head of his men with a courage which won him distinction.

In the meantime, Lord Brome having come of

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age was elected, in 1760, to Parliament from Eye in the County of Suffolk, for which borough members of his family had sat at various times for four hundred years. Two years later, at the death of his father, in June, 1762, he succeeded to the title of Earl Cornwallis and took his seat in the House of Lords. It does not appear that Lord Cornwallis returned to Germany, where the war was still being carried on, though the British army was not then engaged in active operations. He retained command of the Twelfth Regiment until 1765, when he was made Colonel of the Thirty-third, and he continued his practice of accompanying his regiment to their country quarters every year. On the 14th of July, 1768, he married Miss Jemima Tuleken Jones, daughter of Colonel James Jones of the Third Foot Guards, by whom he had two children: Charles, who succeeded to the title but died without male issue in 1823; and Mary, who married Mark Singleton, Esquire, and survived until the year 1857. He had no grandson, but his descendants through his granddaughters have continued to follow the military career in England, and four of his great-grandsons gave up their lives in the Crimea; two were killed at Inkerman,—one died of wounds received at Bala-

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klava,—and the fourth was killed in the trenches before Sebastopol.

During the time when Lord Cornwallis sat in the House of Lords, in which he was exceedingly attentive to his duties and was always present upon the discussion of questions of public importance, it is interesting to note that he was strongly opposed to the scheme of taxing the American Colonies, indeed that he invariably voted against all these measures and exerted his influence so forcibly in opposition to the Ministry and against the known wishes of the King that it became a subject of comment, especially as he held office under the Government; being Chief Justice in Eyre, South of Trent, and also Vice-Treasurer for Ireland. In spite of this fact, however, it is evident that his firm integrity and his personal worth won for him the esteem not only of the Ministry but of the King as well, for he was appointed, in 1770, Constable of the Tower, a military office of considerable lucrative importance (and of value to him because Cornwallis was not a rich man), but one to which at that time neither his rank in the army nor his services in the field gave him strong claim. He retained this position during the whole of the time whilst he was employed in active service in America.

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When the War of American Independence broke out and it was decided in England to take vigorous steps to reduce the Colonies to subjection, Lord Cornwallis was ordered to take command of one division of the British army; and although he sympathized with America, and notwithstanding his opinions as to the injustice of that war upon the part of the mother country, he felt that as a soldier he could not refuse to obey the commands of the King. Lady Cornwallis, whose grief at the separation from her husband was so intense that it appears to have been the cause of her death shortly afterward, so strongly opposed his entrance now into active service that she appealed to Cornwallis' uncle, who was Archbishop of Canterbury, to intercede with the King in order that he might be released from duty in America. And indeed as the result of this step permission was given him to relinquish his appointment and remain in England; an attitude, however, which must have been intolerable to any military man with a sense of pride in his profession,—and Cornwallis peremptorily refused the offer.

He was commissioned with the local rank of Lieutenant General in America and sailed from Portsmouth on the 10th of February, 1776, on board

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the ship-of-the-line "Bristol," one of the fleet commanded by Sir Peter Parker, a heavy and sluggish craft which, after a voyage of eighty-two days, arrived off the coast of North Carolina.

It is not our purpose to follow closely the career of Lord Cornwallis in America prior to the Southern campaign, which we shall have especially to consider, because, from the time of his landing in this country, he was actively engaged in the field. He took part in most of the military operations of importance, and to narrate his movements in detail would require a discussion of the whole Revolutionary War, quite out of place upon an occasion of this kind. He was present at the attack upon New York, in August, 1776, and during the operations in which Brooklyn and New York were captured, the Continental army was gradually forced back and, in spite of their heroic efforts to maintain their ground, the American patriots were driven by the overwhelming superiority of arms and military equipment of the British army under General Howe, first to Harlem, thence to White Plains, and finally across the Hudson and through the country of New Jersey to the Delaware River.

One passes with regret thus lightly over the inci-

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dents of the New Jersey campaign, which, sad as they frequently were, and filled with sacrifice, with suffering and disappointment, were illumined by examples of exalted patriotism and American courage, and culminated in the attack made by General Washington upon Trenton and Princeton; the former of which, in particular, was one of the boldest and most brilliant military exploits recorded in the history of any nation. It was Lord Cornwallis to whom was entrusted by Sir William Howe the command of the division that operated against the Continental army in this famous retreat which General Washington conducted through New Jersey and left the British in the end with nothing but a foothold within the limits of the state which they had approached with all conceivable advantages in numbers, in equipment and in arms; and there was at that time every reason to expect that they would take possession of and hold it after the manner of the strong against the weak. There is no doubt that the British were completely outgeneralled by Washington in this whole campaign; for their manœuvres constantly failed to produce any definite result in their favor. But there is nothing to explain Cornwallis' neglect to take advantage of several opportunities which the

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weight of circumstances had thrown into his way, except possibly the initial instructions of his commander, Sir William Howe. It is very likely that he disapproved of the sluggish movements of General Howe, and there is reason to believe that he considered himself hampered by orders which he received in the conduct of the campaign; though he declined to make this accusation specifically against his superior officer. Somewhat more than two years later, in the year 1779, a committee of the whole was obtained in the House of Commons to investigate the conduct by Lord Howe and Sir William Howe of the war in America, and Lord Cornwallis was called as a material witness. He appeared and declared his willingness to testify as to questions of fact, but declined giving any answers upon matters of opinion. He therefore refused to say whether he thought the movements of the troops under Sir William Howe judicious or not, and would only state generally that he had a high respect for Sir William's military talents. At all events, the position of Cornwallis in America was for some reason an uncomfortable one; for, although he had been here less than a year, he had already obtained leave, in December, 1776, to return to England; and he had gone from his command in

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New Jersey preparatory to sailing for home, operations having been concluded, as he supposed, for the winter. But the attack upon Trenton and the capture of the British garrison there, which was received with consternation by General Howe, obliged him to postpone his departure and brought him hurriedly back to his troops, to re-open the campaign in order to prevent the whole British force from being driven headlong out of New Jersey by the people whom but a few weeks before they had considered too much enfeebled to stir. Indeed, this is one of the striking features of the Revolutionary War, which we see recurring again and again throughout the struggle,—the remarkable recuperative power of the American people, their courage in facing obstacles which it seemed impossible to overcome, their refusal to acknowledge defeat in the reverses which overtook them but never broke their spirit.

Lord Cornwallis was obliged, then, by the unfavorable turn which British affairs had taken, to abandon his project of returning home and to remain in America not only during that winter but throughout the entire year of 1777. He continued in active service and took part especially in the expedition which General Howe decided to make by way of the

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Chesapeake against Pennsylvania, in 1777, which gave rise to the battle of Brandywine, in September of that year, and the occupation of Philadelphia by the British immediately afterward. About the time when the Continental army went into winter quarters at Valley Forge, Lord Cornwallis finally sailed for England where he arrived on the 18th of January, 1778. It does not appear that he intended upon this occasion to remain away from the seat of war, although he resumed during his stay in England his accustomed duties there and attended regularly at the sittings of the House of Lords, where it happened that at that period several exceedingly important questions were debated, upon which he, better perhaps than any one then present, had practical knowledge,—for example, the question of sending more troops to America, the treaty concluded between the United States and France, the resolution offered by the Duke of Richmond to withdraw the army from America.

We find him returning to America in April, 1778, after an absence of four months, and this time not only with the rank of Lieutenant General and second to the Commander-in-Chief, Sir Henry Clinton, who succeeded General Howe, but with authority also to

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assume command in America in the event of the death or retirement of Sir Henry Clinton. The British Colonial Secretary transmitted this commission to him with the following letter: "It having been thought fit, to guard against inconveniences that would arise if any unforeseen accident should happen to Sir Henry Clinton, that you should have a dormant commission giving you the rank of General in America only, I have the honour to transmit to you, by his Majesty's command, the inclosed commission, which, as it is not to take place but in case of a contingency, in order to secure you in such case the chief command over the foreign Generals, is not to be made public if the contingency does not happen." It is very probable that this dormant commission played an important part in the events which followed, by increasing the rivalry which already existed between Clinton and Cornwallis, who, never having been upon terms of cordiality before this time, appear henceforth to have regarded each other with a bitter dislike which became plainly evident in the controversy which took place between them in later years, though it was concealed under the formal exterior of their official communications during the war. Although these two men were of the same age,

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having been born in the same year, Clinton outranked Cornwallis by seniority of commission, and it seems as if, whether for fear of his gaining credit and attracting public attention to himself by his services in the field or on account of the favor with which Cornwallis was held at Court, Clinton was jealous of him. Besides this, Cornwallis was a British Peer, which Clinton was not, and naturally enough the commander saw a dangerous rival in such a lieutenant, especially when the latter was an earnest soldier, quite willing to sacrifice himself in the performance of his duty. This dormant commission intensified his resentment and caused him to look upon Cornwallis as a subordinate who was waiting to occupy his place. His official treatment of him was extremely harsh upon several occasions, and the rudeness of his criticism of Cornwallis, even when the latter was carrying out his orders, speaks the language of a man actuated by personal feeling. This is especially true in relation to the incidents of the Yorktown campaign, in which, as we shall see, Cornwallis was forced, against his own military judgment and by the express direction of his commanding officer, into the disastrous situation which led to his capture.

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In the meantime, when Lord Cornwallis arrived in America upon his return from England he found Sir Henry Clinton upon the point of evacuating Philadelphia, which the British had held less than a year, and of withdrawing all his forces to New York. As this was substantially the abandonment of all the territory which they had won and the concession of the whole of Pennsylvania and New Jersey without even striking a blow, the proposition was met by Cornwallis with the strongest expressions of disapproval. Bitter discussions upon it followed, which so strained their relations that Lord Cornwallis immediately asked to be recalled. Although he had joined the army but a few weeks before, he wrote to the Colonial Secretary, from Philadelphia, on the 17th of June: "As there is great reason to apprehend, from the large detachments which Sir Henry Clinton is going to make, that no offensive measures can be undertaken against the enemy in this part of the world, I must beg that your Lordship will be so kind as to lay my most humble request before his Majesty, that he will be graciously pleased to permit me to return to England." To which, in due time, Lord George Germain replied: "I immediately laid your Lordship's request before his Majesty, who

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ordered me to acquaint you that at present he cannot dispense with your service in North America, especially as your Lordship has a dormant commission to command all the forces there in case of the death of Sir Henry Clinton."

It was the occupation and abandonment of Philadelphia which illustrated the difference between the American soldiers and the British, as well, perhaps, as any point of contrast in the history of the Revolutionary War. The one set of men, idle, sport-loving, negligent of duty and of the cause which brought them to America, passed the winter in the comfortable houses of Philadelphia, attending entertainments, paying compliments, playing at theatricals, drinking, gambling, and carousing, as if the principal object in life were to be amused; trifling away their time with a silly performance called "the Meschianza," in honor of Sir William Howe, who was returning to England with nothing to show but failure during the time in which he had held supreme command. Indeed, it is hard for an American to describe this scene without appearing biased in his judgment of an enemy; but let us hear what an Englishman who has no sympathy with us has to say of his countrymen in this connection. Mr,

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Charles Ross, who is strongly a British partisan, writes that:

“Washington withdrew to Valley Forge, twenty-six miles from Philadelphia, where his troops, hardly exceeding 4000 men, remained in huts, or under canvas, during the whole winter, unmolested by the English, though the weakness of the position and the wretched state of the army invited an attack, which there is every reason to believe must have been successful. Nor was this the only, or perhaps the most serious error committed. Philadelphia became the Capua of the British army. Discipline was totally relaxed. Gaming, if not encouraged, was permitted to a most ruinous extent, and the gross misconduct of very many officers disgusted to such a degree the inhabitants of a town in which, perhaps more than in any other, profligacy was offensive, that feelings very adverse to British authority were engendered or increased among a people originally loyal. These bad impressions were never removed or overcome.”

We know well the history of the other set of men. They were passing the winter in huts; they kept their muskets loaded and protected the liberty of their country, walking barefooted, many of them, upon the snow at Valley Forge.

It was not merely a capricious change of purpose

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that induced Lord Cornwallis to ask thus suddenly to be relieved of his command; for his writings show him to have been a man of such self-control as to be far beyond the reach of impulses of that character. The truth probably is, that he was disgusted with the state of degeneracy in which he found the British army, which, added to his disapproval of the plan then about to be put into execution, that was tantamount to an acknowledgment of defeat, led him to decide that under the circumstances he did not care to serve longer in America. At all events, he continued in the meantime to perform his duty, and, as the evacuation of Philadelphia was then inevitable, he assisted in that movement, commanding a division of the retreating army upon its march through New Jersey. It was during this retreat that General Washington fell upon the British at Monmouth; and, but for the treacherous conduct of Charles Lee, would probably have gained a decisive victory over them. As it was, the Americans remained in possession of the field, and the British moved off under cover of the night to pursue their retrograde movement to New York.

The summer passed without having produced any important result in the affairs of the army under

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Sir Henry Clinton, who did not take the field except in some slight skirmishes chiefly carried on by parties sent out for the purpose of foraging for the garrison ; and at the end of the year we find Lord Cornwallis again returning to England, this time, however, without the intention of coming back to America. Having received news of the serious illness of Lady Cornwallis, he resigned his command. He arrived in England in the month of December, 1778. If he had carried out his intention at this time Lord Cornwallis would have had a very different position in American history from the one with which we are all familiar ; indeed, the whole subsequent history of the war would have been other than it is, for there would probably have been no campaign at Yorktown. Up to this time he had the reputation of a conscientious, painstaking division commander, whose performance of duty could always be relied upon, but whose military skill had not been tested by independent action beyond the control of the central authority of the Commander-in-Chief. He must then have carried with him a reputation that would have been, as far as it went, thoroughly substantial, and no doubt he would have been looked upon with consideration in England. He would have escaped the mortification

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from which his personal feelings never recovered during his life, and, singularly enough, it is doubtful whether in that event he would have attained to the position of high honor or acquired the military glory which brightened the declining years of his life in India. For it is altogether likely that it was due to his services in Virginia and to his defence of Yorktown, for the surrender of which he was never disgraced in England, that he received the favor of the King and filled out a career which otherwise might not have been opened to him.

Lord Cornwallis arrived only in time to pass with his wife the closing hours of her life, for Lady Cornwallis died on the 11th of February, 1779. Ever since her husband had decided to accept his appointment in the American war, she appears to have withdrawn herself from the society of her friends and to have lived in almost complete retirement at Culford, the family estate, near Bury St. Edmunds, where she repined to such a degree that her health gave way; and she is said to have declared repeatedly to a confidential friend who attended her there, that she felt herself to be dying of a broken heart. There is something touching in her grief, thus slowly consuming the life of this lady whose very being seems to have

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depended upon the presence of the man in whom centred the brightness and happiness of her home; and it indicates the tenderness of Lord Cornwallis' domestic relations, of which, indeed, his letters to his children, so full of affection, give ample testimony. She was unwilling to be consoled for the burden of suffering that had been hers to bear, and she sought even in death to perpetuate the memory of her sorrows, for by a strange tenacity of purpose in this respect Lady Cornwallis directed that a thorn tree should be planted upon her grave, as nearly as possible upon the spot to mark her heart. Her wish was complied with, and the thorn grew until the year 1855, when, by reason of some alterations to the Church, it was necessarily removed, and though it was piously replanted, it then died.

After the loss which he had sustained by the death of his wife, Lord Cornwallis decided to re-enter the army, and thereupon he was ordered again at his own request to sail for America. Lord George Germain, the Colonial Secretary, announced this appointment by a letter to Sir Henry Clinton, in April, 1779, as follows:

“After I had closed my despatches, Lord Cornwallis went to Court, and made an offer

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of his services to the King, which you will not doubt his Majesty was graciously pleased to accept; and I have received his Majesty's commands, in consequence thereof, to recall and cancel the dormant commission of General which I told you was signed by the King for Major-General Vaughan, and Lord Cornwallis is to return to his former situation of second in command to you.

"As you are well acquainted with his Lordship's military merit," he continued, "his return to America cannot but be highly pleasing to you, and your having so able an officer to second you in your operations, and share with you the cares and fatigues of so extensive a command, will, I hope, be an additional motive for your remaining in it if any motive could be wanting to induce you to continue with satisfaction in a command your exercise of which has already redounded so much to your honour."

This announcement which promised to revive an intercourse that had always been unpleasant and was likely now, from Cornwallis' strengthened influence at Court, to become intolerable, could not have been pleasant news from home for Sir Henry Clinton. It is even a question worthy of very serious consideration whether the action of the Ministry was not an unwise one, in keeping thus in contact with each other

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two officers whose known differences of opinion threatened at any moment to injure the public cause. There can be no doubt that Lord George Germain understood the situation, or, indeed, that he sympathized personally with Cornwallis. At all events, almost immediately upon the return of the latter, Clinton in his turn asked to be recalled. Writing to the Secretary of State in August, and after having begun his letter with a reference of formal politeness to Cornwallis' presence, in which he said:

"I must beg leave to express how happy I am made by the return of Lord Cornwallis to this country," he exclaimed: "To say the truth, my Lord, my spirits are worn out by struggling against the consequence of many adverse incidents, which, without appearing publicly to account for my situation, have effectually oppressed me; to enumerate them would be a painful and unnecessary, perhaps an improper task. At the same time let me add, my Lord, that my zeal is unimpaired; and were I conscious that my particular efforts were necessary for his Majesty's service, no circumstance of private feeling would raise within me a single wish of retiring from the Command. That, however, is not the case; for I do seriously give it as my opinion that, if the endeavors of any man are likely, under our present pros-

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pects, to be attended with success, Lord Cornwallis, for many reasons, stands among the first."

It is true that General Clinton's position was unsatisfactory to him, largely because he believed that he should have been supported from England by a greater force, which the Ministry refused to send him; but we are justified in concluding that he was irritated by the presence of Cornwallis, whom he attacked in print, after the war, with great recrimination and bitterness.

Neither Clinton nor Cornwallis was relieved at this time from his duty, however; and during the next two years, in which they were engaged in very serious military operations, each had a part to perform which taxed his energies to the utmost. The period had now been reached when the British Government completely changed its plan of military operations in the conduct of the war. The theory of the Ministry had been, at the outset, that the rebellion could be suppressed without great difficulty by isolating from each other the more important divisions of the territory which were mutually dependent; and that by weakening the Colonies in this manner they could be separately dealt with and brought to sub-

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jection. Upon this theory, the chief purpose of the movements hitherto had been to cut off New England from Pennsylvania, New York, and New Jersey, and to prevent communication between them by taking and holding possession of the Hudson River, across which the stream of traffic flowed from each of these two great districts to the other. The attack upon New York and Brooklyn, the campaign in New Jersey, the expedition of Burgoyne which was intended to gain the Hudson from Canada and the North, the occupation of Philadelphia, were all undertaken with a view to this intention, and all had failed. At the end of the year 1778, therefore, after three years of war, the British may be said to have gained substantially nothing. The country was not conquered and they had withdrawn their forces to their base of operations at New York. Now, however, a new plan was agreed upon as likely to be more effective; this was, to leave sufficient force at New York to occupy the attention of the Continental army whilst a strong detachment should be sent to open hostilities in the South. It was hoped by this means to recover the States of North Carolina, South Carolina, and Georgia; and that, once having firmly established the King's authority in those productive districts, where

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it would be easy to support an army, the British commander might carry on the war against the North from thence with great advantages; and that, in any event, Great Britain could not then be forced to give up all her colonies if a peace were ultimately made which should involve the cession of territory.

The theory was a good one and would no doubt have realized to the British many of the promised advantages if the people of the Southern States had been found as willing to accept British rule as it was expected they would. But herein lay a serious miscalculation, for they were counted upon to welcome the approach of the English, to yield possession of their homes, to swear allegiance to the King, and, not only that, but to take up arms and to fight against their brothers in America. The result proved that there were no patriots more tenacious of their national liberty than these men who fought the invaders for nearly three years through North Carolina, South Carolina, Georgia, and Virginia; and although the British were victorious upon some occasions, yet their victories cost them so dearly that they resulted in no substantial gain; once at least, at the battle of Guilford Court House, victory crippled them so that it differed very little from defeat. Corn-

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wallis himself declared that no dispassionate person could believe "that I did not give every encouragement to people of all descriptions to join and assist us, when my own reputation, the safety of the army, and the interests of my country were so deeply concerned in that junction and assistance. All inducements in my power were made use of without material effect; and every man in the army must have been convinced that the accounts of our emissaries had greatly exaggerated the number of those who professed friendship for us, as they must have observed that a very inconsiderable part of them could be prevailed upon to remain with us, or to exert themselves in any form whatever."

The first move in the new plan of conquest was made in the autumn of 1778, when Sir Henry Clinton sent out from New York an expedition made up of some three thousand men under Colonel Campbell, escorted by a squadron commanded by Commodore Hyde Parker, against the State of Georgia. It landed late in December, and, at the opening of the year 1779, Colonel Campbell had taken Savannah, the British occupied the territory of Georgia and had opened the campaign with what seemed to their Commander-in-Chief like the brightest promise of

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success. The purpose of the campaign, as it had been declared by the Ministry in England, was to establish a line of communication across South Carolina and North Carolina; five thousand additional troops were subsequently to be detached to capture Charleston, and the Colonial Secretary believed that if effective movements were made in Virginia and Maryland, "it would not be too much to expect that all America south of the Susquehanna River would return to its allegiance."

So greatly was Sir Henry Clinton encouraged by the results obtained by his forces thus far employed in the undertaking, that he determined, toward the end of the year, to go out himself and take an active part in the operations which now, more than at any former period of the war, appeared to offer glory to the British arms. He left New York in the month of December, 1779, with a detachment which, when joined with the forces already in the field at the South, gave him a formidable army of ten thousand men; this was still considerably increased by other detachments ordered by him to come out from New York for that purpose under Lord Rawdon and Lord Cornwallis. He advanced upon Charleston, which he captured and obliged brave old General Benjamin

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Lincoln to surrender himself and the garrison as prisoners of war ; and, after having called upon the people by proclamation to come forward and sustain the authority of King George, feeling exceedingly confident that at least South Carolina and Georgia were now permanently re-conquered, and after having spent six months in forwarding this work for which he expected to receive great credit in England, he embarked the larger part of his forces and returned to his headquarters at New York, in June, 1780.

When Sir Henry Clinton withdrew to the North he left behind him a detachment consisting of about four thousand men to hold the conquered territory as well as to extend as much as possible the sphere of British influence ; and the command of this detachment he assigned to Lord Cornwallis. Thus, about a year and four months before his capture, we find Lord Cornwallis exercising an independent command in South Carolina, and this was the starting point of the road which led him to Yorktown. General Clinton's orders to him were that he should take command of the troops which, as Clinton said, "are now here or may arrive in my absence. Your Lordship will make such changes in the position of them as you may judge most conducive to his Majesty's

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service, for the defence of this most important post and its dependencies. At the same time, it is by no means my intention to prevent your acting offensively, in case an opportunity should offer, consistent with the *security of this place* (Charleston), which is always to be regarded as a primary object.”

The protection of Charleston, then, was the important object of the duty assigned by Clinton to Lord Cornwallis, and this is a subject which acquired very serious weight in connection with his subsequent movement into Virginia; and it is to be remembered by any one who studies the exceedingly acrimonious controversy which took place between them afterwards when each sought to fasten upon the other the responsibility for the defeat inflicted upon the British arms at Yorktown. General Clinton did not prohibit Cornwallis from undertaking new enterprises in the British interest, it is true; but we have just seen that he made the *security of Charleston* always a primary object. This would have been a complete justification upon the part of Cornwallis for *not* having gone to Virginia, if he never had gone there, but it makes the question an extremely difficult one to decide, how far he is to be blamed for having gone there and having been defeated.

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His movements, however, upon having assumed command were most carefully made, looking first to the strengthening of his position in South Carolina; and as a natural consequence of this, his judgment led him to decide upon an operation against North Carolina in order the better to consolidate the British interests at the South, and to place a barrier between that district and the influences from the North which he now began to fear. For, said he, "It may be doubted whether the invasion of North Carolina may be a prudent measure; but I am convinced it is a necessary one, and that if we do not attack that province, we must give up South Carolina and Georgia and retire within the walls of Charleston." He was still more thoroughly convinced of this by the intelligence as to the movements of the Continental army which he received from the North. General Washington, who had been carefully studying the situation, had persuaded Congress to turn its attention toward the defence of the South; and, in consequence of this, an army under General Gates was then marching through North Carolina to oppose the British. Lord Cornwallis set out from Charleston, therefore, and, moving in a northwesterly direction, met Gates at Camden, where he fought the memorable

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battle with him on the 16th of August. In this action Gates was disastrously beaten, the Baron de Kalb was killed, and the American army was thrown into confusion and dispersed. Cornwallis was very greatly encouraged to believe that this victory would prepare the way for him into North Carolina and that the Tories of that country would now declare themselves openly in his favor; and he thought that it would be useful for the British Commander-in-Chief to send a force into the Chesapeake in order to create a diversion and prevent the troops of Virginia from being sent against him. He wrote shortly after the battle of Camden to Sir Henry Clinton:

“I have not yet heard any accounts from North Carolina; but I hope that our friends will immediately take arms as I have directed them to do. The diversion in the Chesapeake will be of the utmost importance. The troops here have gained reputation but they have lost numbers, and there can be no doubt that the enemy will use every effort to repel an attack, which, if successful, must end in their losing all the Southern Colonies.”

It looked, indeed, at that moment as if the British had secured a very dangerous hold upon the Southern

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Colonies already; though Cornwallis was evidently in doubt as to how he would better proceed from where he then was, for he added in his letter to Sir Henry Clinton:

“It is difficult to form a plan of operations, which must depend so much on circumstances, but it appears to me that I should endeavor to get as soon as possible to Hillsborough; and there assemble and try to arrange the friends who are inclined to arm in our favor, and endeavor to form a very large magazine for the winter. . . . But all this will depend on the operations which your Excellency may think proper to pursue in the Chesapeake, which appears to me, next to the security of New York, to be one of the most important objects of the war.”

As soon as he heard of the British victory at Camden, Sir Henry Clinton decided to turn his attention toward Chesapeake Bay as Cornwallis had urged him to do; he sent a detachment under General Leslie, in October, 1780, with instructions to establish a post near Portsmouth, in Virginia, and to operate on the James River. Leslie was placed under the orders of Lord Cornwallis, but was not to pass the Roanoke without specific instructions from that officer. This was the situation, then, in October, 1780, just about a year before Yorktown: Cornwallis was

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triumphantly heading toward the North; Gates had been defeated; Leslie was guarding the Chesapeake and threatening Virginia. The outlook was in some respects more promising for the British than at any time previously during the war. It never was so favorable again. Cornwallis had advanced as far as Charlotte, in North Carolina, when he received his first severe check in the total destruction of one part of his command under Major Ferguson, who was gallantly attacked and killed at King's Mountain by a force of the American militia. This blow weakened Cornwallis so much that he decided not to advance further upon his expedition, but to go into winter quarters and try to prepare himself for active operations by obtaining reinforcements from the North. He retreated, therefore, to South Carolina, established himself at Winnsborough, and ordered General Leslie to leave the Chesapeake and come by sea to join him. In the meantime, Congress, growing alarmed at the progress of events, decided to replace Gates and to strengthen as much as possible the army operating in the Carolinas; therefore, when Cornwallis was ready to take the field again he found himself opposed to General Nathaniel Greene, who in the

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operations which followed proved easily a match for him.

We are not concerned here to follow in detail the campaign of General Greene, interesting as it is, or to recount the gallant resistance which he offered to the enemies of his country throughout the years 1780 and 1781, because our main purpose is to consider the operations immediately connected with Yorktown, to which Greene's campaign was but the preliminary step. After Cornwallis had been reinforced by General Leslie, therefore, and when his command had been increased to something more than three thousand men, he set out again toward the North Carolina country in hope of counteracting the influence which Greene's courage was rapidly spreading amongst the people of the State in opposition to British rule. Cornwallis was really afraid to lie still longer, lest the results of his former work should thus be completely lost. He says that the march into North Carolina "was thought expedient not only by me, but by the Commander-in-Chief. I was principally induced to decide in favor of its expediency from a clear conviction that the men and treasures of Britain would be lavished in vain upon the American war, without the most active exertions

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of the troops allotted for that service; and that, while the enemy could draw their supplies from North Carolina and Virginia, the defence of the frontier of South Carolina, even against an inferior army, would be, from its extent, the nature of the climate, and the disposition of its inhabitants, utterly impracticable."

He had left a force sufficient to protect Charleston from sudden attack under Lord Rawdon, to whom he confided the task of holding possession of South Carolina, whilst he himself was operating toward the North. Cornwallis hoped now to deal General Greene such a blow as he had dealt to Gates at Camden, and thus not only to win victory by the force of arms, but also to encourage, by American defeat, the Tories and British sympathizers to rise up and help him hold the country, which he always regarded as an object of prime importance. He thought that if he could get behind Greene, so as to cut him off from Virginia, he could surround him by his own troops to the northward and by those of Rawdon to the south, so that he might easily be dealt with. "I hoped," he said, "by rapid march to get between General Greene and Virginia, and by that means force him to fight without receiving any reinforcement from that province; or, failing of that, to oblige

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him to quit North Carolina with precipitation, and thereby encourage our friends to make good their promises of a general rising to assist me in re-establishing his Majesty's Government." Greene was, however, altogether too good a soldier to be thus easily caught in a trap. His force was greatly inferior to that of his opponent, so that he was unable to face his enemy in the open field; but, whilst carefully retreating, he drew Cornwallis after him and dealt him a blow on the 17th of January, when General Morgan won his victory at Cowpens over the well-known cavalry leader, Colonel Tarleton, which staggered Cornwallis in the same manner that the action at King's Mountain had done in the previous campaign. "The unfortunate affair of the 17th of January," he said in his official report, "was a very unexpected and severe blow; for, besides reputation, our loss did not fall short of six hundred men. However, being thoroughly sensible that defensive measures would be certain ruin to the affairs of Britain in the Southern Colonies, this event did not deter me from prosecuting the original plan." Recovering himself, therefore, he continued in pursuit of Greene who was now retiring, and whom for two months he drove before him, across the river Dan and

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beyond the boundary line of Virginia; completing thus by the early part of March the task he had set for himself of extending British authority throughout the State of North Carolina.

But his triumph at this point was of exceedingly short duration; for the valiant Greene, having somewhat strengthened his numbers, recrossed the Dan and offered battle, which Cornwallis eagerly accepted, on the 15th of March, at Guilford Court House. This battle of Guilford is a very curious and interesting one in its results; for, oddly enough, it left the victor powerless to avail himself of the advantage he had gained, and crippled him to such an extent that his triumph did not differ greatly in its consequences from those of actual defeat. Lord Cornwallis had unquestionably gained a victory at Guilford, but at such a cost in the loss of officers and men and such a disorganization of his whole force that he left the field of operations open to General Greene; and, to the surprise of the Continental army, he hurriedly withdrew with his troops to the sea coast and established a post at Wilmington, early in April.

It is difficult to understand the course of reasoning by which Cornwallis arrived at the decision to take

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this extraordinary step; for the road to South Carolina lay open behind him and he might readily have retired upon Lord Rawdon who, it will be remembered, was acting under his orders in that State. It is true, that to have done so would have been to acknowledge that his expedition had been checked; but his retirement to Wilmington was certainly an open admission that he had failed in North Carolina, the moral effect of which was equally great. The causes, however, which actuated him appear to be these: that he was intensely anxious to keep behind Greene and to cut him off from his base in Virginia; that he was alarmed at finding himself thus weakened in the enemy's country; and that he hoped to receive reinforcements by sea at Wilmington. He tells us in his official statement that the disappointment at not receiving the aid which he looked for from the Tories, "and the wants and distresses of the army compelled me to move to Cross Creek; but meeting there with no material part of the promised assistance and supplies, I was obliged to continue my march to Wilmington, where hospitals and stores were ready for us. . . . My intention then was, as soon as I should have equipped my own corps, and received a part of the expected reinforcement from

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Ireland, to return to the upper country, in hopes of giving some protection to South Carolina, and of preserving the health of the troops until new measures could be concerted with the Commander-in-Chief."

This was the crisis of Lord Cornwallis' military career in America; and the many questions relating to it, which have been discussed over and over by the critics as well as by the principal actors in the undertaking, are of great importance in American history. For it was at this point that he adopted the resolution which led him, before the year was out, to desperation, to total defeat, and to capture in his entrenchments at Yorktown. Persisting in his fixed determination to cut off General Greene, who, now left unmolested, was progressing toward South Carolina, Cornwallis decided to push directly northward into Virginia, in order to unite there with a force under General Phillips and Benedict Arnold, whom Sir Henry Clinton had sent out to replace General Leslie when the latter had left the Chesapeake to go to South Carolina as we have seen. "The march of General Greene into South Carolina," says Cornwallis, "and Lord Rawdon's danger, made my situation very critical. Having heard of the arrival of

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a packet from Europe without any certain accounts of the sailing of the reinforcement, I thought it too hazardous to remain inactive, and as it was impossible to receive in time any orders from Sir Henry Clinton to direct me, it became my duty to act from my own judgment and experience: I, therefore, upon mature deliberation, decided to march into Virginia, as the safest and most effectual means of employing the small corps under my command in contributing towards the general success of the war."

Setting out from Wilmington, therefore, Cornwallis, who now began to fear that, instead of his cutting off General Greene, Greene might beat Rawdon and return to cut him off, marched his detachment into Virginia, where he united with the command of General Phillips on the 20th of May, at Petersburg. Evidently this was the result of his own deliberate judgment, in carrying out a plan of operations upon which depended the security of the district confided to his care; but it carried him definitely beyond the limits of instructions given to him by the Commander-in-Chief of the British forces, and the responsibility for what followed must fall, largely at all events, upon him. Sir Henry Clinton said to him upon hearing of his move to Virginia:

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“I cannot conceal from your Lordship the apprehension I felt on reading your letter to me of the 24th ult., wherein you inform me of the critical situation which you supposed the Carolinas to be in, and that you should probably attempt to affect a junction with Major-General Phillips. . . . Had it been possible for your Lordship in your letter to me of the 10th ult., to have intimated the probability of your intention to form a junction with General Phillips, I should certainly have endeavored to have stopped you; as I did then, as well as now, consider such a move as likely to be dangerous to our interests in the Southern Colonies. And this, my Lord, was not my only fear; for I will be free to own that I was apprehensive for the corps under your Lordship’s immediate orders, as well as for that under Lord Rawdon; and I should not have thought even the one under Major-General Phillips in safety at Petersburg, at least for so long a time, had I not fortunately on hearing of your being at Wilmington sent another detachment from this army to reinforce him.”

At this point we approach the great dramatic event of the Revolutionary War, which it is impossible for an American to study without something of the enthusiasm which it aroused in the breasts of our forefathers in that moment of triumph when they realized that their patience and courage had estab-

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lished liberty throughout this Continent and American nationality throughout the world. Three months passed by during which Cornwallis continued his efforts to take possession of the State of Virginia, in which he was gallantly opposed and held in check by the Continental detachment sent there for that purpose, under the Marquis de LaFayette. We find that by the end of August he had evidently abandoned his purpose of conquering the State and was occupied in carrying out the orders of Sir Henry Clinton, who directed him to select a point in Chesapeake Bay where a permanent British post might be established to protect ships of war and become in that connection a naval station for future movements. Lord Cornwallis had accomplished nothing for Great Britain by his expedition to Virginia; he had but aroused the patriotic spirit of the people against the British; he was thinking of a return to South Carolina, and, it is altogether likely that he would ultimately have moved back again in that direction if the hurrying events had not closed him in so that it became impossible for him to make that move, or any other, in his own defence.

In the meantime, the events which were to come were preparing themselves at the North with won-

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derful celerity. The opening of the campaign of 1781 had found General Washington and the Continental army watching the movements of Sir Henry Clinton at New York and guarding the Hudson River, which, as we have seen, it was the constant effort of the British to recover, and which was throughout the war the greatest cause of solicitude to the American Commander-in-Chief. The strength of America was fast waning in the struggle which exhausted its available resources; the Continental army consisted of but a few thousand men; it was difficult, almost impossible, to increase its numbers. General Washington was anxious to assist General Greene for whose position at the South, between Cornwallis and Rawdon, he felt serious alarm. LaFayette was holding his ground with skill in Virginia; but the outcome was extremely doubtful. In this critical situation, the only means left to General Washington by which to relieve the pressure upon Greene,—for he had neither effective force nor munitions of war to send to him,—was to create a diversion by making an attack upon New York, and thus oblige Clinton to recall a part or all of his forces for the defence of his own base of operations. A movement against New York became, therefore, the objective of the cam-

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paign, and Washington had concentrated all his forces near Dobbs' Ferry, having previously united to his own American troops about four thousand French Regulars, well-disciplined and splendidly-equipped soldiers who had been encamped the previous winter at Newport under the command of General the Comte de Rochambeau.

The situation, then, in August, 1781, was this: Clinton in New York, Cornwallis in Virginia opposed by LaFayette, Washington on the Hudson planning to threaten New York in order to help Greene; when suddenly the whole scene changed, as if by magic, and the attention of the actors was fastened upon a new object. The Continental army left the banks of the Hudson; the diversion against New York was forgotten; Washington and Rochambeau were with LaFayette along the James River, in Virginia. The cause of this extraordinary change of conditions was, the news received from the French West Indies. In the desperate attitude of their affairs, Congress had sent to France, the year before, to implore more aid than had already been supplied to us from there, to beg King Louis XVI to strengthen our resources by the detachment into American waters of a new fleet to give us naval support, and the advancement

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of further sums of money to enable us to maintain and equip the Continental army; and General de Rochambeau had asked also for more men. The reply had been made that the French Government would not increase its military force in America, because that seemed extravagant, for it would only induce the British to do the same. But money was supplied in very large sums, and, what was of great importance in connection with the operations of that campaign, the announcement was made, under the promise of absolute secrecy, that Admiral de Grasse, who was upon the point of leaving France to protect her interests in the West Indies, would come into the waters of North America sometime during the summer with his powerful fleet, to sweep the coasts and to take part in any expedition which General Washington might propose.

The receipt of this information led General Washington at first to hope that so great an accession to his forces, which would give the Americans the decided naval superiority, might be employed to advantage in the operations which he was planning against New York. But, at the middle of August, whilst he was still in his camp near Dobbs' Ferry, a dispatch, brought by a frigate detached for that purpose from

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the West Indies, bore to him the information that Admiral de Grasse was at that moment setting sail with his fleet for North America, that he had with him, besides a large sum of money and a great quantity of artillery and munitions of war, three thousand regular French troops for land service, under the Marquis de Saint-Simon; that he could stay upon our coasts only until the month of October, at which time his return to the West Indies was imperative, but, in coming North, he should stop first in Chesapeake Bay where he hoped to be of service to the American cause and that everything would be in readiness for a co-operation upon the day after he made a landing there. The possibilities of the situation flashed upon the mind of Washington instantly. He knew that Cornwallis was then occupied by Sir Henry Clinton's orders in fortifying the post at Yorktown and Gloucester, and that LaFayette was closely pressing upon him from a position occupied by the American forces at Williamsburg. If, therefore, the British could be held where they then were until the fleet of Admiral de Grasse should arrive to cut them off from aid by sea, and a sufficient army could be concentrated upon LaFayette's position to block them by land, there could be but one result.

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He determined to move at once with his force of Frenchmen and Americans, and to march with them as rapidly as possible into Virginia. First taking the precaution to send word to LaFayette to exert every effort in order that Cornwallis might not withdraw and escape into North Carolina, General Washington made this entry in his journal: "Matters having now come to a crisis, and a decided plan to be determined on, I was obliged—from the shortness of Count de Grasse's promised stay on this Coast, the apparent disinclination of their naval officers to force the harbor of New York, and the feeble compliance of the States with my requisitions for men hitherto, and the little prospect of greater exertion in future,—to give up all ideas of attacking New York, and instead thereof to remove the French troops and a detachment from the American army to the head of Elk, to be transported to Virginia." Breaking up his camp, therefore, on the 19th of August, and leaving Sir Henry Clinton still under the impression that his movement was a menace to the garrison at New York, he slipped away through New Jersey and Pennsylvania, and, on the 14th of September, Washington and Rochambeau had safely arrived at the headquarters of LaFayette at

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Williamsburg. In the meantime, Admiral de Grasse had sailed into the Chesapeake on the 30th of August, with twenty-eight ships of the line; he had landed the French troops of General Saint-Simon, who were then encamped with LaFayette's men; he had been joined by eight French ships of war under Admiral de Barras, from Newport, with all the military stores and heavy siege-guns belonging to Rochambeau's detachment; and everything was now in readiness to begin operations when General Washington should give the word of command.

At that moment Lord Cornwallis was already doomed. There still remained a month in which he was to make almost frantic efforts to release himself from the trap into which he had fallen, and during that time there is no doubt that Sir Henry Clinton exerted every effort to save him; but it was of no avail, the case was hopeless. Cornwallis always blamed Clinton for having obliged him in the first instance to make the post at Yorktown and Gloucester, which he considered of not the smallest influence on the war in Carolina, "and which," said he, "will only give us some acres of an unhealthy swamp and is ever liable to become a prey to a foreign enemy with a temporary superiority at sea." He had with-

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drawn his army across the James River in July, with the intention of establishing at Portsmouth a garrison of such troops as should be left by the British Commander-in-Chief within the limits of Virginia. But Clinton reprimanded him sharply for having made what he called "so serious and mortifying a move as the re-passing James River, and retiring with your army to Portsmouth;" and he added: "It ever has been, is, and ever will be my firm and unalterable opinion that it is of the first consequence to his Majesty's affairs on this Continent, that we take possession of the Chesapeake, and that we do not afterwards relinquish it. . . . With regard to your Lordship's returning to Charleston, for which you say you await my approbation, though I allow your Lordship to be the best judge where your presence may be most required, yet, as I cannot conceive that offensive operations will be carried on in Carolina for some months, I must beg leave to recommend it to you to remain in the Chesapeake at least until the stations I have proposed are occupied and established." Sir Henry Clinton's orders had been, to hold Old Point Comfort in order to secure Hampton Roads; and that York should be secured so as to "give the command of the lower, or Elizabeth coun-

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try, and deprive the rebels of the use of the two best settled rivers of the Chesapeake." Cornwallis' engineers had surveyed Old Point Comfort accordingly and had declared that it would not serve the purpose intended; therefore he had no alternative, in compliance with the directions of his superior officer, but to occupy York and Gloucester. This he was proceeding to do accordingly.

All the American and French troops having arrived at Williamsburg, General Washington decided to advance upon the British position. He marched out on the 28th of September with the whole army and took a post about two miles from Yorktown; the Americans occupying the right and the French establishing their position to the left. At noon the heads of columns arrived upon their respective grounds and drove in the enemy's pickets. On the morning of the 30th it was discovered that the British had evacuated all their exterior works and had withdrawn to those near the town. The investment was complete except upon the York River above the town, from which direction the enemy could not expect to receive any succor.

Up to this moment Cornwallis was confident. He wrote to Sir Henry Clinton on the 29th: "I have ven-

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tured these last two days to look General Washington's whole force in the face in the position of my outside works, and I have the pleasure to assure your Excellency that there was but one wish throughout the whole army, which was, that the enemy would advance. . . . I shall retire this night within the works, and I have no doubt if relief arrives in any reasonable time, that York and Gloucester will be both in possession of his Majesty's troops." He expected relief from New York, for Clinton had written to him: "I think the best way to relieve you is to join you as soon as possible, with all the force that can be spared from hence, which is about 4000 men. They are already embarked and will proceed the instant I receive information from the Admiral that we may venture," and on the 29th of September: "It is determined that above five thousand men, rank and file, shall be embarked on board the King's ships, and the joint exertions of the navy and army made in a few days to relieve you. . . . There is every reason to hope that we start from hence the 5th of October."

The first week in October was spent by General Washington in disembarking his military stores and mounting his heavy siege-guns. This having been

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accomplished, the first parallel was opened within six hundred yards of the British lines, whence the American and French artillery opened a fire which became so heavy that it completely silenced the enemy's guns. On the night of the 11th the second parallel was opened, only three hundred yards from the enemy's works; and from this the fire of the besiegers became destructive in the extreme. In the meantime, Clinton wrote to Cornwallis: "Your Lordship may be assured that I am doing everything in my power to relieve you by a direct move, and I have reason to hope . . . that we may pass the bar (at Sandy Hook) by the 12th of October, if the winds permit and no unforeseen accident happens." But, on the 15th, Lord Cornwallis reported to him: "Last evening the enemy carried my two advanced redoubts on the left by storm, and during the night have included them in their second parallel, which they are at present busy in perfecting. My situation now becomes critical; we dare not show a gun to their old batteries, and I expect that their new ones will open to-morrow morning. . . . The safety of the place is therefore so precarious that I cannot recommend that the fleet and army should run great risk in endeavoring to save us." Sir

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Henry Clinton, still hoping to relieve him, had sent a dispatch from New York, on the 14th of October, in which he said: "Our fleet consists of twenty-five ships of the line and two fifties, with a large number of frigates. They are now ready, and I expect we shall certainly sail in a day or two." To which he added, on the 15th: "Had the wind been fair to-day, the fleet would have fallen down to the Hook, but I expect the whole will sail to-morrow;" and on the 18th, from Sandy Hook: "The fleet is assembled, the troops embarked on board, and the whole will go to sea, if the wind continues fair, to-morrow morning."

It was then too late. On the morning of the 17th of October, Cornwallis had sent a flag of truce to General Washington with a note, which read as follows: "I propose a cessation of hostilities for twenty-four hours, and that two officers may be appointed by each side, to meet at Mr. Moore's house, to settle terms for the surrender of the posts of York and Gloucester." Two days later, the British army marching out of Yorktown in the presence of the allied French and American troops, at the head of whom were General Washington, the Comte de Rochambeau and the other Commanders, surrounded by their staffs, proceeded to a point agreed upon, and,

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laying down their arms, surrendered themselves, eight thousand men in all, prisoners of war. By the terms of the capitulation they were obliged to keep their colors cased, in return for the same condition imposed as an indignity upon the American garrison at Charleston; and General Benjamin Lincoln, who upon that occasion had been forced to yield, had now by appointment of General Washington the satisfaction of receiving the British Commander's sword from the hand of General O'Hara, whom Cornwallis, alleging an illness, had sent to deliver it. And, as at Charleston, the victors had expressly prohibited the American garrison, in marching out, from playing a British air or a German air, so now Cornwallis' troops were *required* to play either a British or a German air, and they selected the tune, "The World's Turned Upside Down."

This was the most humiliating defeat that the arms of Great Britain have ever sustained; it is the greatest military glory of America. It was an operation skilfully planned and successfully carried out by General Washington in the face of difficulties that are almost inconceivable in our day, and in the midst of dangers which, in case of its failure, would have overwhelmed him. It resulted in the complete

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triumph of the American cause, for it broke the hold of the British upon this Continent and ended the war. The news of it spread consternation throughout England, where the King was still stubbornly declaring that he would bring the colonists back to the performance of his will; and we have the testimony of an eye-witness, that when the Prime Minister, Lord North, received the intelligence of Cornwallis' surrender, he took it "as he would have taken a ball in his breast; he opened his arms exclaiming wildly as he paced up and down the apartment, 'O, God, it is all over.' Words which he repeated many times under emotions of the deepest consternation and distress."

The campaign at Yorktown brings Washington and Cornwallis into direct contrast as military leaders in a case where each assumed responsibilities coupled with circumstances of extraordinary risk. Cornwallis left his field of operations in the South to come into Virginia upon an expedition readily justifiable, no doubt, upon the part of an independent commander; and in undertaking it he provided against all the contingencies which he foresaw. The difficulty was, however, that when a contingency arose which he did not and could not foresee, he was too far from his base, and fell helplessly into the net.

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The operation of General Washington, on the other hand, was a great military achievement. He also assumed risks; he also moved far from his base; he left the Hudson River and the whole northern country open to immediate occupation by the enemy in case of his defeat in Virginia. But all this was plain to him, and carefully thought out by him beforehand. His resolution was courageous; it was almost desperate; but his circumstances at the time and his slender resources justified him in making a move, as he did boldly and deliberately, in which the whole destiny of America depended upon success or failure.

After his surrender Lord Cornwallis was not detained in America as a prisoner of war, but was permitted to return upon his parole to England, where he arrived early in the year 1782. Efforts were made to bring about an arrangement by which Congress should exchange him for Mr. Henry Laurens, at that time detained as a prisoner in London; but no result was reached, and Cornwallis remained under his parole until the declaration of peace.

His subsequent life was full of most honorable activity in the service of his country, both at home and abroad; and, in spite of the reverse which he met with in America, he was entrusted with duties of

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grave responsibility which he fulfilled with a devotion and a success that made him, at the opening of the new nineteenth century, one of the most distinguished Englishmen of his time. In 1786 he was made a Knight of the Garter and became Governor General of India, where he remained until the end of 1793, when upon his return to England he received a marquise and a seat in the Privy Council. In 1798 he accepted, at the earnest request of Mr. Pitt, the office of Lord Lieutenant of Ireland, which he held for three years. In 1801, he went to France as the representative of Great Britain to negotiate with Napoleon Bonaparte the Treaty of Amiens; and having again become Governor General of India, he died, in the Province of Benares, in October, 1805.

THE RELATIONS OF THE UNITED STATES TO ARBITRATION FOR THE SETTLEMENT OF INTERNATIONAL DISPUTES

WHILST the principles of International law have been developing in their application to the great variety of questions which have arisen from time to time out of the advance of civilization during the past hundred years, and their authority has been steadily extended and enlarged as the result of a wider recognition throughout the world, by mutual agreement, of the rights of one people in its national and sovereign capacity toward another people, no means of promoting harmony has been discovered which has proved to be so efficient as the recourse to arbitration in the settlement of international disputes. The employment of it in the nineteenth century increased with such rapidity that it has been shown by a comparative statement to have doubled in the number of cases in each period of ten years over that of the same length of time immediately preceding; and if we were to enumerate the nations which have submitted their disagreements to its adjustment, we should not only include, in addition to the United States, the great Powers of Europe,—Great Britain, France,

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Germany, Austria, Italy, and Russia,—but almost every country of the world; for instance, besides Spain, Denmark, Belgium, Holland, Norway and Sweden, we should have Turkey, Greece, Persia, China, Japan, Mexico, and all the republics of Central and South America.

Statesmen of all the Cabinets of the world have turned to this method of arriving at conclusions which shall safeguard national honor and content public opinion, on both sides of a controversy that may arise between their own nation and others, without having recourse to forcible measures and without incurring the danger of bringing upon their countries the fearful destruction and suffering that must follow in the path of a modern war. Whilst entire uniformity of action has not yet been arrived at between all the Powers, there is a sentiment which is constantly growing stronger, that in all international disputes an effort should be made to reach an amicable adjustment by arbitration, by mediation, by intervention, if necessary, before proceeding to the extent of open hostility; and it has become the custom, in negotiating treaties between sovereign states at the present day, to insert in them an article providing for the submission to arbitrators of such questions as may arise between the contracting parties which cannot be

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settled by mutual agreement through the ordinary diplomatic channels.

What we know as International Law is, in fact, a series of rules of conduct adopted and pursued by civilized nations as the result of common experience, the sanction and authority of which lie in general assent; as they are not laws in the sense of legal enactment, and consequently are not to be put into execution by process issuing out of an established court, they depend for their enforcement upon the agreement of nations arrived at either by convention or confirmed by public acts.

The highest expression of the agreement between the separate states in regard to subjects in which all are directly interested took place at the Conferences at The Hague in 1899 and 1907,—those great international congresses which may rightly be called the triumph of modern civilization, in which the peoples of the earth met together prepared to make mutual concessions in order to reach conclusions beneficial to all, in which also their deliberations were crowned by the “Convention for the peaceful adjustment of international differences,” which they published to the world. To this they have given by international agreement the character of law, and they have established the most advanced position that international

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intercourse has ever attained, by declaring, in the first Article of that Convention, that: "With a view to obviating, as far as possible, recourse to force in the relations between states, the signatory Powers agree to use their best efforts to insure the pacific settlement of international differences."

The Convention provided that arbitration should be recognized as the most efficacious and the most equitable method of deciding controversies; that an agreement of arbitration may be made with reference to disputes already existing or those that may hereafter arise; and, to give it the stamp of an accepted duty, the Powers decided that the agreement of arbitration implies the obligation to submit in good faith to the decision of the arbitrator.

Thus the principle of amicable intercourse between nations was fixed upon a substantial foundation such as it had never had before. It was strengthened by further provision, adopted in the wisdom and forethought of international jurists and political leaders whose chief solicitude it was to prevent conflict, that, in case of serious disagreement, before an appeal to arms, recourse should be had, in so far as the circumstances would allow, to the good offices or mediation of one or more friendly Powers; and that, even beyond this, it would be useful that one or more

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Powers, strangers to the dispute, should, on their own initiative; tender their good offices or mediation to the states at variance; it being understood that such good offices might be tendered even during the course of hostilities, and that the exercise of such a right should never be regarded by either of the parties as an unfriendly act.

In accordance with the temper and character of the American people, and in furtherance of the principles of liberty, the dissemination of justice and the extension of good will amongst all men, upon which our Government has been erected, the representatives of the United States at The Hague were invariably found in the lead amongst those who supported the adoption of these enlightened measures, and their firmness and diligence in that regard contributed greatly, without doubt, to the ultimate acceptance of them by the delegates of the other signatory Powers.

But it is interesting to note that the government of the United States has always favored recourse to arbitration in the settlement of this class of differences, throughout the exceedingly wide range of foreign relations with which it has had political and commercial experience during the last century and a quarter. Although men's minds have been turned of late more forcibly to the subject, because it has as-

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sumed a recent prominence in cases of public notoriety, arbitration is not by any means a new subject in America; indeed, we have employed it with great frequency and notable success ever since we became an independent nation.¹⁵ We may trace its influence distinctly by the expressions of public opinion, from time to time, in favor of the establishment of a fixed system of adjustment of differences between nations. Benjamin Franklin had said, already in 1783:

“When will mankind be convinced that all wars are follies, and agree to settle their differences by arbitration? It would be better than by fighting and destroying each other.”

And we find resolutions introduced into the Legislature of Massachusetts in 1832, and again in 1837, declaring that “some mode should be established for the amicable and final adjustment of all international disputes instead of resort to war.” The same spirit animated the United States Senate, when, in 1851, the Committee on Foreign Relations reported a resolution that: “it would be proper and desirable for the Government to secure in its treaties with other

¹⁵ It has been shown, by an investigation, made in 1914, by the Carnegie Endowment for International Peace, that the results of the arbitrations in which the United States have taken part, are as follows: Total of the awards: \$92,855,444.77. In favor of the United States, \$69,501,682.33 = 74.8 per cent.; against the United States, \$23,353,762.44 = 25.2 per cent.

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nations a provision for referring to the decision of umpires all future misunderstandings that cannot be satisfactorily adjusted by amicable negotiation, before a resort to hostilities"; and Charles Sumner introduced in the Senate a resolution, in 1872, the substance of which is, that: "The United States, having at heart the cause of peace everywhere, and hoping to help its permanent establishment between nations, recommend the adoption of arbitration as a just and practical method for the determination of international differences, so that war may cease to be regarded as a proper form of trial between nations."

In the meantime, however, we have constantly been giving, as a Government, practical effect to these sentiments in relation to the maintenance of peace and friendly intercourse between nations; the United States have had arbitrations of disputed questions not only with Great Britain, but with Germany, France, and Russia, with Portugal, Denmark, Spain, Mexico, China, Brazil, Paraguay, Chile, Peru, Venezuela and numerous other countries, upon a great variety of questions through which amicable and satisfactory arrangements have been reached and accepted by the high contracting parties.

One of the most interesting examples in the world of this kind of adjudication is that which relates to

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our northern frontier, the boundary line of which has been fixed, by a remarkable series of negotiations between the United States and Great Britain, throughout its entire length, from Atlantic to Pacific.

It was especially provided by an Article of the treaty of peace signed at Paris, by John Adams, Benjamin Franklin, and John Jay, in 1783, that, in order that "all disputes which might arise in future, on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries," and this was followed by a description of the line which, in all good faith, was intended to anticipate any misunderstanding, but which, far from forestalling disagreement, became itself the source of very troublesome disputes. It proved afterwards that the country had, throughout a large portion of it, never been surveyed, the maps were not accurate and the descriptions given were so indefinite that quarrels arose between the frontiersmen almost immediately upon the signing of the treaty. The line was said to run "From the northwest angle of Nova Scotia, viz., that angle which is formed by a line drawn due north from the source of the Saint Croix River to the Highlands." The St. Croix River became, therefore, an important determining factor, and its position on

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the maps as well as in the territory itself was a controlling landmark,—from which fact this dispute between the two countries has taken the name of the St. Croix disagreement; and the truth is, at that time no one could tell what the St. Croix River actually was.

It was impossible to determine with sufficient certainty what river had been intended in the treaty, and hostile feeling, which became accentuated by each succeeding year, had grown so serious by the year 1790 that General Washington brought the subject to the consideration of the Senate, with a recommendation that all questions between the United States and other nations should be speedily settled; and the Senate advised that “it would be proper to cause a representation of the case to be made to the Court of Great Britain, and if said disputes cannot be otherwise amicably adjusted, to propose that commissioners be appointed to hear and finally decide them.” But no definite step was taken until the year 1794, when Mr. Jay went to England to negotiate for the general adjustment of differences. In the treaty which he concluded in that year, commonly known as Jay’s Treaty, a provision was made that the question as to the Saint Croix River should be referred for final decision to a Commission, one Commissioner to be appointed by the King of England and one by

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the President of the United States, and these two to agree on the choice of a third. Such a Commission was appointed, and, after a painstaking investigation which extended through nearly four years, it rendered its decision in 1798, by which the boundary line starting from Nova Scotia was finally settled.

But it left the frontier still undetermined toward the West, between New Brunswick and the State of Maine, in regard to which attempts were made for years to arrive at some satisfactory agreement, without result; the dispute, which assumed constantly more threatening proportions, having become known as "The Northeastern Boundary Controversy." It was not until 1826, when Albert Gallatin was sent as United States Minister to England, that a Convention was signed, under which the contracting parties agreed to proceed in concert to choose some friendly sovereign or state as arbiter, and to use their best endeavors to obtain a decision within two years. The ratification of this Convention took place in London in 1828, the parties agreeing to submit the questions at issue to the King of the Netherlands as arbiter, that Sovereign having intimated his consent to act.

After an exhaustive and laborious examination of the case, the Dutch King, William, rendered his decision in 1831; but, not having been able to fix defi-

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nately the boundary line, by reason of the insufficient data given him in regard to a country which had at that time been scarcely explored, the arbiter abandoned the effort to establish the boundary according to the provisions of the original treaty of peace, and recommended what, all things considered, was a line of convenience which appeared likely to be acceptable to the parties concerned. The decision having been protested against by the United States and not insisted upon by Great Britain, the controversy went on until 1842, when it was finally settled by a treaty prepared by Mr. Webster, as Secretary of State, and Lord Ashburton, who had been sent to Washington as Special Minister, which contained an agreement under which Commissioners were appointed by each side to run the line upon the ground.

In the same manner, by treaty and the appointment of Commissioners, the boundary was fixed and extended along the Great Lakes to the Rocky Mountains, and from thence to the Pacific Ocean; the last unsettled question being that of the exact location of the line running westward, along the 49th parallel, to the channel which separates the continent from Vancouver Island. In the desire to reach an amicable conclusion as to this also, the United States

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agreed to submit the controversy to arbitration, and united with Great Britain, in 1871, to entrust the decision to the German Emperor as arbitrator. The Emperor accepted the task, and by his decision, rendered at Berlin, in 1872, fixed the boundary through the Strait of Fuca, which was accepted by both of the contracting parties as the definite line; so that, when General Grant referred to this award, in his message to Congress, in 1872, he declared that it "leaves us, for the first time in the history of the United States as a nation, without a question of disputed boundary between our territory and the possessions of Great Britain on this Continent."

Thus, the United States have not only built up their national character and established the definite lines of their public jurisdiction by submitting to the awards of arbitrators, but have greatly strengthened the influence of the methods of arbitration itself by bringing to its principles the prestige of their acceptance of them and approval by the American people. A very memorable example of this is the case of the Geneva Tribunal, to which were submitted and disposed of, in 1872, the disputed questions known as the Alabama Claims and others, arising out of the Civil War, the sources of violent feeling and acrimonious discussion in this country which threatened

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for several years to interrupt our friendly intercourse with Great Britain. That tribunal was formed by the selection of five arbitrators—one by the President of the United States, one by the Queen of Great Britain, one by the King of Italy, one by the President of the Swiss Confederation, one by the Emperor of Brazil. And yet another example is that of the reference, not long ago, to the Tribunal at The Hague, which finally adjusted certain serious and complicated questions relating to fishing rights on the Atlantic Coast of British America, about which we were at variance with England for almost a hundred years.

Progress in extending amicable relations and fair dealing between the different nations is the progress of civilization. We may rightly assert our claim to an advanced position in the maintenance and defence of the principles upon which this rests. At this moment the President of the United States is using his most earnest endeavors to establish with several of the foreign nations permanent treaties of arbitration for the settlement of international differences, which will have almost incalculable influence for good, by the example before the whole world of the great Powers exerting their authority toward the administration of international justice and equity, and the preservation of peace.

GENERAL HOWE'S CAMPAIGNS IN THE REVOLUTIONARY WAR

I

ONE of the most striking incidents at the beginning of hostilities in the War of American Independence was the singular misconception upon the part of the British Government, and especially of King George III, of the character of the American people. Notwithstanding the fact that the Colonists were principally of English descent, that very many of them had been sent over to be educated in England, that through the royal governors as well as through the avenues of commerce and trade a close intercourse had constantly existed for more than a century between them and the mother country, the Ministers of the King's Cabinet, the majority in Parliament, the King himself, looked upon the inhabitants of this Continent, in 1775, as a race of helpless, spiritless provincials whose waywardness had led them into erring paths and whose nature required the judicious correction of a wise and beneficent master.

The remarkable discretion and self-restraint with which the representatives of this people discussed its public affairs, under the pressure of grievances recog-

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nized by all, and the devoted loyalty with which they presented their case for redress before the home Government, failed to elicit from it the slightest appreciation of their merit as a people. For it is important to remember in connection with the American Revolution that it was not, from the outset, a seditious uprising against the established authority, but that, on the contrary, it was a movement directed against the policy of the *ministry alone*, for the purpose of correcting abuses, or what were conceived to be abuses, without disturbing the sovereignty of the King; indeed, no more earnest expressions of loyalty to Great Britain were probably ever written than the addresses which went out from America to the King and to the British nation, and actual war had existed for more than a year before the people took the final step which led to the dismemberment of the empire.

The King himself, whose comprehension of the case was singularly bad, was entirely honest in the purposes he had in view; and, with an intense jealousy of the royal prerogative which always blinded him and usually misled him in matters relating to America, evidently intended to be just to all his subjects if they would do everything that he considered right; not that he placed value especially upon the

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amount of revenue which came out of the taxes imposed upon the Colonies, but that he would insist upon laying these taxes if he saw fit; and the Colonists must submit to it precisely in that way;—after that, he would be generous.

“I do not wish to come to severer measures,” he wrote confidentially to Lord North, “but we must not retreat; by coolness and an unremitted pursuit of the measures that have been adopted, I trust they will come to submit; I have no objection afterwards to their seeing that there is no inclination for the present to lay fresh taxes on them, but I am clear there must always be one tax, to keep up the right,—and as such I approve the Tea Duty.” (11 Sept., 1774); and he said in another letter to his Minister: “Where violence is repelled with resolution, it commonly yields; and I own, though a friend to holding out the olive-branch, I have not the smallest doubt that, if it does not succeed, when once vigorous measures appear to be the only means of bringing the Americans to a due submission to the Mother Country, the Colonies will submit.” (15 February, 1775.)

It is difficult, in the light of subsequent historical events during the century which has passed since that time, to realize that this could have been the conception entertained, by one who ought to have known

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the truth, of a nation where public thought was directed and public opinion shaped by men like Washington and Jefferson, Jay, John Adams, Samuel Adams, Alexander Hamilton, John Dickinson, Patrick Henry, Benjamin Franklin, Robert Morris, John Hancock, Richard Henry Lee.

Yet the King declared: "I entirely place my security in the protection of the Divine Disposer of all things, and shall never look to the right or left, but steadily pursue the track which my conscience dictates to be the right one." (15 Feb., 1775.) "Every means of distressing America must meet with my concurrence, as it tends to bringing them to feel the necessity of returning to their duty." (15 Oct., 1775.) And when the great Earl Chatham, then in opposition and ranged amongst those who believed that America had been condemned without a hearing and who strongly objected to the war, openly declared that the American Congress had "conducted this most arduous and delicate business with such manly wisdom and calm resolution as did honor to their deliberations," and that "America, under all her oppressions and provocations, was holding forth the most fair and just opening for restoring harmony," the King resented his expressions with violent outbursts of anger, and looked forward hopefully to a time

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“when decrepitude or death should put an end to Chatham, as a *trumpet of sedition*.”

The most interesting, and, as it proved, the most important phase of this misunderstanding of the American character was the report given by the royal officers to the Cabinet and the King, that the Americans would not fight; and, curiously enough, although the provincial militia had done good service under the British standard in all of England's former contests upon this Continent, it appears never to have occurred to the British mind that these same men could at all protect themselves or defend their own interests. It was commonly asserted in England that they could not make soldiers, some of the more violent critics even declared them to be cowards who would not dare to face the first show of authority. Unfortunately for the King, he was strengthened in this belief by men of rank and experience like Governor Hutchinson, of Massachusetts, and his Generals, like Gage and Haldiman, who had just returned from America. “I have seen Lieutenant General Gage,” wrote he to Lord North, “who came to express his readiness, though so lately come from America, to return at a day's notice, if the conduct of the Colonies should induce the directing coercive measures. His language was very consonant to his

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character of an honest, determined man. He says they will be lions whilst we are lambs; but, if we take the resolute part, they will undoubtedly prove very meek." (4 February, 1774.) It is amazing that a public servant like Gage should so fail to understand the very elements of the character of the people with whom he had been in daily contact. And yet, a little later, we see in one of King George's letters: "Maj. General Haldiman is arrived, and seems thoroughly acquainted with the sentiments of the Americans. He says nothing but force can bring them to reason, and owns that, till they have suffered for their conduct, it would be dangerous to give ear to any propositions they might transmit."

The Earl of Sandwich, one of the Lords of Admiralty, gravely declared to Parliament: "Suppose the Colonies do abound in men; they are raw, undisciplined and cowardly. . . . Believe me, my Lords, the very sound of a cannon would send them off as fast as their feet could carry them." And, at the thought of American resistance, Dr. Johnson exclaimed: "Audacious defiance! Acrimonious malignity! The indignation of the English is like that of the Scythians, who, returning from war, found themselves excluded from their own houses by their slaves." (Taxation no Tyranny.)

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Such was the intolerant spirit with which the increasing uneasiness in America was regarded by the British Government, through the autumn and the winter of 1774. After the incident of the throwing over the tea in Boston harbor followed the closing of the port of Boston, the prohibition to its citizens to share in the fisheries upon which they depended largely for support, the alteration of the charter of Massachusetts and the series of repressive measures by which it was intended to enforce submission and obedience; but which in fact merely irritated the people and drove them to further acts of insubordination, until, in the spring of the year 1775, the Colonies were rapidly drifting into war. Lieutenant General Gage had returned to America with the authority of Commander-in-Chief of the King's troops, and at the same time as Governor of the Colony of Massachusetts, and he was occupying Boston, a town of some seventeen thousand people, with a garrison of four thousand men. In the meanwhile all the country had become aroused, and as day by day the British soldiers, many of whom were encamped upon the Common and quartered about the town, gaily entertained each other, enjoying the brightness of an unusually mild winter, thinking of how to pass the time cheerfully, despising the thought that it was neces-

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sary to prepare for serious work among Colonists neither armed nor trained,—the feeling of hatred was growing deeper into the hearts of the people, and their stubborn determination to resist the aggression of these men, whom they now began to look upon as enemies, was quickening the new life which was soon to spring forth and unite the American Colonists with the confidence, and vigor, and dignity of a nation.

“We still remain in our camp on the Common,” wrote Captain Evelyn, of the Fourth Regiment, the King’s Own, “but expect soon to get into barracks. I have taken a house for George and myself, and we hope to pass the winter comfortably. This country is very fine, the climate wholesome, and we are all in good health and spirits; we get plenty of turtle, pine-apples, and Madeira. We expect to be shortly re-inforced; and we shall have no apprehensions from the very great numbers in this province, should they ever come to extremities, as they sometimes affect to insinuate; for though upon paper they are the bravest fellows in the world, yet in reality I believe there does not exist so great a set of rascals and paltrons. What all this will end in it is impossible to guess. Great Britain has it in her power now to keep America in the dependence she has a right to insist upon,” though “this whole country is just now in a state of actual, open rebellion; there is not

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a man from sixteen to sixty, nay, to a hundred years old, who is not armed and obliged to attend at stated times to train; there is no act of treason or rebellion which they have not committed, except that of actually attacking the troops, from which they are restrained only by a dread of the consequences. I believe never was so much mercy extended to any nation on the face of the earth. As we have reason to believe that more troops and men-of-war will be sent out in the spring, there are a few things which George would be very glad to receive by them; such as a few pairs of ribbed thread and silk stockings, a hat or two, and a couple of silver tablespoons; but nothing would be more acceptable than a cask of porter, as our only liquor for the table here is a stuff they call spruce beer."

This British officer, in his letters home, reflects the carelessness with which even men in the army viewed the situation on the ground and the indisposition of the British in general to consider its seriousness. Captain Evelyn, in particular, discovered serious work enough to be done before long, and he gave up his life within a year, before the American lines at New York.

At length, however, the clash came, early in April, 1776. No matter who fired the first shot. Historians and critics have argued over this question, on either

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side. The truth is, that the tension had become so great that, sooner or later, within a very short space, a break was inevitable. The guns were ready to go off, as the French say: *tout seuls*,—and, indeed, they appear almost to have done so in the little action which took place at Concord. Alarmed at the activity of the population which was evident throughout all the towns and villages of Massachusetts, General Gage decided by way of precaution to send out a force to destroy the ammunition and provisions which the Colonists had collected and stored in a magazine in the village of Concord, some twenty miles from Boston. About eleven o'clock at night, on the 18th of April, he detached 800 grenadiers and infantry for this purpose; who, embarking at the foot of Boston Common, under command of Lieutenant Colonel Smith, and landing in East Cambridge, were at Lexington early the following morning on the road to Concord.

There is something solemn in the conduct of the American patriots at this critical moment of the country's history. Earnestly and courageously those men, animated with a zealous and unselfish devotion to their country which has made their actions classic, came forth from their homes at the sound of the alarm bell which summoned them now to keep faith in

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the face of these British troops. Gravely they arranged themselves on the village green at Lexington, young men and old, the minister in the midst of his flock, he having like the others brought with him his firelock and powder-horn, in fulfilment of a sacred duty. The British van found them there at sunrise, and, hearing their drums and alarm guns, halted to load; the other companies of the detachment came up; the whole advanced at double quick; and, when Major Pitcairn, at the head of the column, cried out: "Disperse, you villains; lay down your arms and disperse!" shots followed immediately and the War of Independence had begun. Several men were killed on either side, but it did not take the British regulars very long to drive off this handful of undisciplined opponents and to march to Concord. There the inhabitants had collected in the same manner, and similar scenes were enacted; after which the British troops fulfilled their mission by throwing into the river about a hundred barrels of powder and destroying a lot of flour and provisions. Turning, then, to make his way back to Boston, Lieutenant Colonel Smith found himself beset by enemies upon every side. Alarms had gone out during the morning and the men from all the surrounding villages came hastening in to help their fellow citizens.

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Along the highway upon which the troops were marching they were harried and distressed by the Colonists who ran from one point to another and fired at them from "every fence, house, hollow-way and height as they passed on"; and they were finally thrown into disorder and probably would have been destroyed if General Gage, who had grown uneasy, had not sent out from Boston a second detachment under one of his commanding officers, Lord Percy, who came to their rescue as they were entering Lexington. There is a strong contrast between the earnestness and vigilance of the Americans in this case and the laxity of the pleasure-loving British, which recurs frequently throughout the war. The Colonists knew beforehand of General Gage's intention to send out this expedition, although British officers about headquarters gave very little or no heed to it, even as part of their duty. We have the testimony of this in a letter written to England shortly afterwards, by one who accompanied the forces:

"Our secret had been ill-kept; the rebels knew our intention and were prepared. Lt. Col. Smith's party would have been destroyed had not Lord Percy joined him; and even he was almost too late from two stupid blunders we committed. The General ordered the First Brigade under arms at four in the morning; these

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orders the evening before were carried to the Brigade Major's; he was not at home,—the orders were left,—no inquiry was made after him; he came home late; his servant forgot to tell him there was a letter on his table; four o'clock came—no brigade appeared—at five o'clock an express from Smith desiring a reinforcement produced an inquiry; the above discovery was made; at six o'clock part of the brigade got on the parade; they waited, expecting the marines; at seven, no marines appearing, another inquiry commenced; they had received no orders, . . . it came out that the orders had been addressed to Major Pitcairn, who commanded the marines, and left at his quarters, though the gentlemen concerned in this business ought to have recollected that he had been despatched the evening before with the grenadiers and infantry under Lt. Col. Smith. This double mistake lost us from four till nine o'clock when we marched off to support Lt. Col. Smith."

This exploit of the British gained them nothing beyond the destruction of the comparatively insignificant stores at Concord; but it cost them a loss of prestige which was not restored throughout the war, for the Americans had now ventured to face these regularly-equipped regiments, and the whole country was emboldened by the result. The British withdrawal from Concord was hailed as a victory; and,

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indeed, it is difficult to explain the position of weakness in which the King's troops allowed themselves at once to be placed. For, instead of resenting the attacks made upon them along the road, they continued to retreat, even after Earl Percy had reinforced the first detachment; they never stopped until they were safely within the lines near Boston, and they left with the patriots of Massachusetts the incalculable advantage of the moral effect of success upon the first trial of strength. From this time forward General Gage's garrison was actually besieged in Boston and prevented even from coming out to forage, by the very men whom they had affected to despise.

Although the outbreak of hostilities had thus actually occurred, there were still hopes of reconciliation in the minds of the Americans; the Congress which assembled in Philadelphia in May made yet another attempt to appeal to the better judgment of the King, but whilst it prepared an address to the Sovereign it also prepared, in the event of failure in that direction, to meet the ever-increasing dangers at home. General Gage proclaimed martial law in Massachusetts early in June, proscribing by name Samuel Adams and John Hancock as rebels, and declaring all those to be traitors who should remain

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under arms about Boston, also the members of the provincial government and the Continental Congress.

Almost at that moment the British reinforcements sent out from England arrived in Boston under three Major Generals—Howe, Clinton, and Burgoyne; and, on the 15th of June, the Continental Congress appointed General Washington, one of its own members, to the chief command of the army which had been rapidly forming under the influence of the events at Concord, and was then, to the number of fifteen or sixteen thousand men, concentrated about Cambridge.

This was the attitude, then, of the affairs in America when the first actual engagement between the Continental army and the British forces took place, before General Washington assumed command, and whilst General Ward was still performing that duty, on the 17th of June, at Bunker Hill, which also is the first occasion upon which we meet with General Sir William Howe.

The action of Bunker Hill presents some distinctive features which entitle it to be remembered always in our history; notably the superior enterprise of the Americans and their splendid personal courage in battle—most of them being then under fire for the first time. Although the British force at

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Boston amounted now to above 5000 effective men, and although the surrounding country was daily becoming more hostile and disturbed, the General had advanced no outposts nor sent out parties of reconnoissance; apparently not even the ordinary patrol such as a commander would naturally employ to protect his lines and watch the movements of the enemy. There were professional military men and experienced engineers with General Gage in Boston, and three English Major Generals whose counsel was at least available; and yet no step was taken, until after the middle of June, to secure one of the most important positions in the vicinity which, in a military sense, commanded the town. But with that confidence in his own acts which he still retained, General Gage, although blockaded in the town of Boston, sent out another proclamation offering pardon to all the Americans, except Samuel Adams and John Hancock, who would submit at once, and threatening to punish those who refused.

A little to the north of the peninsula of Boston is another, similar in form, called the peninsula of Charlestown, which is separated from it by the Charles River. This peninsula of Charlestown, bounded on the north by the River Mystic, and on the east by Boston harbor, is entirely surrounded by

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navigable water except where it joins the mainland by a narrow neck.

There were two eminences upon it,—the one nearest to Boston, about seventy-five feet high, called Breed's Hill, and the other, somewhat more than a hundred feet high, at the foot of which stood the town of Charlestown, called Bunker Hill; this last was sufficiently prominent to overlook any part of Boston, and near enough to be within cannon shot.

The council of war in the American camp at Cambridge, rightly estimating the value of this position, decided to occupy and fortify it; and being, as they always were, well informed of what was taking place within the British lines, they knew that General Gage contemplated at last the occupation of the peninsula of Charlestown; whereupon they decided to forestall him. His purpose had been to move out a force in that direction on the 18th of June; the Americans set off from Cambridge and took possession of the place on the night of the 16th. Early in the morning of the 17th a redoubt about eight rods square on Breed's Hill appeared to the astonished eyes of the British sentinels, and an entrenchment ran along on the left almost to the Mystic River. Colonel Prescott, of Pepperell, with a thousand men supplied with entrenching tools had been at work since midnight

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and were discovered at sunrise, having nearly completed their works, which in many places were cannon-proof. The movement had been carried on so skilfully and quietly that, although three British warships, the "Lively," the "Somerset," and the "Falcon," lay so near that Prescott could hear the sentries cry "All's well" throughout the night, he was not disturbed until the day broke. The guns of the "Lively" were immediately trained upon the redoubt, and soon a battery was brought to bear upon it from Copp's Hill, in Boston.

But as the Continental soldiers still held their ground, General Gage ordered out a detachment of grenadiers and light infantry, under General Howe, to dislodge them. This force landed on the peninsula of Charlestown about noon of the 17th of June. When Colonel Prescott saw these British troops gaining the shore in the direction of the Mystic River, somewhat to the north and east of his redoubt, he sent Colonel Knowlton with his men from Connecticut to take a position on the left, in order to oppose them. About two hundred yards distant from Prescott's redoubt was a fence of posts with two rails set in a low stone wall, and extending about three hundred yards toward the Mystic; here Knowlton's men took their stand. They made a breastwork of the

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fence by weaving grass between the rails, and they carried forward another post and rail fence which they placed behind the first one and piled new-mown hay into the space between them. Between this grass fence and Prescott's redoubt was an open space which remained undefended; and there was a similar space to the left where the ground sloped off to the river; the rear was entirely unprotected. Reinforcements came in from Cambridge during the morning, so that the battle actually began about two o'clock; the Continentals under Prescott, Knowlton, Warren, Putnam, and Stark, who were all aiding to prepare the defence, amounted to 1500 men.

When the British first landed and saw the Americans ready to contest the ground they halted and sent back to General Gage for more troops, who came up soon and then the whole detachment, consisting now of more than 2000 men, formed in two lines and advanced up the slope, General Howe leading the light infantry on the right against the grass fence; General Pigot with the grenadiers facing the redoubt. The attack was begun by a sharp cannonade from the British field-pieces and howitzers; the troops advancing slowly in the meantime with perfect order and precision. The Continentals had very little powder; not a grain to waste. Prescott, therefore, ordered

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his men to hold their fire until the enemy were within ten or twelve rods; Putnam, who was behind the fence, told his people to wait until they could see the whites of their eyes, and not to discharge a gun until the word was given to fire. Every one of these men, raised in a country where the woods abounded with game and where the inhabitants were accustomed to firearms from their infancy, knew how to use a rifle with deadly aim; and the injunction now given them was carefully heeded. Onward came the British line confident of immediate success and easy victory; approaching nearly to the Continental works, the word *fire* was given from within, and every gun along the redoubt and the breastwork was discharged with a terribly destructive effect. Almost the whole of the British front rank went down. The attacking force was staggered by this unexpected outburst and by the continued discharge of musketry from the American works, where some loaded guns whilst others fired. The British recoiled, giving way at several points. General Howe was for a few seconds left nearly alone; for most of the officers about him were either killed or wounded, and Stedman, who served as a British officer during the war, tells us that: "It required the utmost exertion of all the officers, from the generals down to the subalterns, to repair the dis-

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order which this hot and unexpected fire had produced.”

It must be said to the credit of the British soldiers that they formed again and returned a second time to the charge; and again they were received by the same deadly fire which halted them as before. General Sir Henry Clinton, who had been watching the engagement from Boston, now hastily came upon the ground and assisted Howe and Pigot, who with great exertion brought their men once more into line. A third time they advanced, now with fixed bayonet and without firing a shot. The powder of the Americans had given out; it was impossible to resist. The last shots from the redoubt were fired with the contents of a cannon cartridge which had been opened for the purpose; and with this the foremost of the British were killed as they mounted the parapet,—among them being the same Major Pitcairn who had summoned the men at Lexington to disperse. Prescott gave the order to retire, and when his men had abandoned the redoubt Knowlton and his Connecticut soldiers left the rail fence, which they still held against an attempt of the enemy to turn their left, in the direction of the Mystic.

At length the British troops had gained the angle of the fence and had also turned the redoubt; but the

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soldiers were too greatly fatigued to use the bayonet whilst the artillery was not effective, because, by one of those inexplicable blunders which were not uncommon at that time in the British service, it was discovered that twelve-pound cannon-balls had been brought for six-pound guns. The greatest loss which the Americans suffered during the day took place upon this retreat, and it was at this moment that fell the brave and lamented General Warren. Of killed and wounded there were some four hundred and fifty, while upon the British side one-half of the whole detachment were either dead upon the field or disabled; their total loss amounting to over a thousand men of whom nearly a hundred were commissioned officers. Nothing certainly could have been more clumsily managed than this attack of the British upon the American position, in which, with the plainest opportunities either to cut Prescott off in the rear or to attack him in the flank with great advantage, the grenadiers and infantry, accoutred with knapsacks, cartridge boxes, and three days' provisions, each man carrying the weight of 125 pounds, were marched, upon an intensely hot day, up a slope covered with long grass, into the most exposed position that could have been sought.

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“We went to battle without even reconnoitering the position of the enemy,” wrote one of their officers. “Had we only wanted to drive them from their ground, without the loss of a man, the Cymetry transport, which drew little water, and mounted 18 nine-pounders, could have been towed up Mystic Channel and brought to bear within musket shot of their left flank; . . . or one of our covered boats, musket-proof, carrying a heavy cannon, might have rowed close in, and one discharge on their uncovered flank would have dislodged them in a second. . . . Had we intended to take the whole rebel army prisoners, we needed only to land in their rear and occupy the high ground, and by this movement to shut them up in the peninsula as in a bag. But from an absurd and destructive confidence, carelessness, or ignorance, we have lost a thousand of our best men and officers, . . . the wretched blunder of the over-sized balls sprang from the dotage of an officer of rank in that corps, who spends his whole time in dallying with the schoolmaster’s daughters. God knows, he is old enough,—he is no Samson,—yet he must have his Delilah.”

It would not greatly profit us now to occupy our time by criticizing the generalship of Sir William Howe in this action, the defects of which are plainly evident to any observer. He exerted neither pru-

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dence nor foresight; nor did he bring into use the ordinary rules of war which as a professional soldier he knew well by study and experience, and of which he would certainly have been watchful in facing the regularly organized forces of any European nation. It is plain that he did not prepare himself for battle, because he did not think that he was going into battle; but he acted as if he were dealing with a riot, for General Howe unquestionably believed that he should have very little to do at Bunker Hill beyond the mere dispersing of a mob. It is a striking example of the danger of neglecting the military maxim, never to despise one's enemy, through which, in an incredibly short time, Howe lost a thousand of his best troops and among them over a hundred of his commissioned officers. The truth is that the battle of Bunker Hill was a revelation to the British army and the British people. It forced them to open their eyes to the facts which they had hitherto stubbornly disregarded. The same General Gage who had assured the King that "they will be lions whilst we are lambs," noted with astonishment in his official report to the war office in London: "The conduct, attention and perseverance of the Continental troops"; admitting now to the Minister that: "The conquest of this country is not easy," and justify-

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ing himself by the remark: "I think it my duty to let your Lordship know the true situation of affairs."

From that day to this there has been no doubt in the mind of anybody as to this quality of courage in the American character; for, however the resistance at Lexington and Concord might have been treated and accepted as the desultory action of an excited populace, even if the subsequent events of the war had not demonstrated their true spirit, the battle of Bunker Hill established the fact that Americans are both patriots and soldiers. Benjamin Franklin saw the bearing of it, at a glance, and wrote to his friends in England: "The Americans will fight; England has lost her Colonies forever."

Beyond occupying the ground at Bunker Hill, the British made no serious effort to follow up that action, which, although in the sense of their having dislodged the enemy it might have been called a victory, was in fact little more than a defeat: for it had cost them quite out of proportion to the slight advantage they had gained and it made them cautious, not to say timid, in advancing beyond their entrenchments; while, on the other hand, it had encouraged the Americans to acts of boldness which gave them an appearance of strength which they really did not possess.

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General Washington took command of the American army, at Cambridge, on the 3rd of July, 1775, and although he found himself at the head of some fourteen or fifteen thousand men, they were not disciplined, were not used to service in the field, were generally armed with their own guns which they had brought with them; under an exceedingly defective system of enlistments they had been engaged only for short terms, so that their time of service expired and many were constantly going back to their homes. Furthermore, there was so little powder that it would have been impossible to sustain a general engagement. With this force he had to maintain his line of blockade on the land side, from Roxbury on the right to the Mystic River on the left; and to secure the centre where his own headquarters were at Cambridge. But on the other hand, and with an inconceivable lack of enterprise, the British General allowed himself thus to be hemmed in until provisions failed and the garrison was reduced almost to want. The reports sent home of the engagement at Bunker Hill and the situation of the King's troops in Boston created profound disappointment in England, upon which the Ministry decided to recall General Gage in the hope of entrusting the campaign to the direction of a more spirited commander.

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Gage retired, therefore, upon the 10th of October, and the chief command was given to Major General Howe, with whom we shall have to deal henceforth.

William Howe, who was at this time a man forty-six years of age (having been born on the 10th of August, 1729), was descended from an ancient family which had long been distinguished in the counties of Somerset, Wilts, and Dorset. His father was Emanuel Scrope Howe, Baron Clenawley and Viscount Howe, who had been Governor of Barbadoes, and his mother was called Sophia Charlotte Mary, daughter of Baron Kielmansegge, Master of the Horse to George I. Personally, he was six feet in height, rather coarse in appearance and exceedingly dark. One of the Quakers who lived near the scene of action at Brandywine who saw him upon the field at that battle, described him as a large, portly man, with coarse features, who appeared to have lost his teeth, as his mouth had fallen in. And one of his own officers, writing at the time, said of him, that "his manners were sullen and ungracious, with a dislike to business and a propensity to pleasure. His staff officers were in general below mediocrity, with some of whom, and a few field officers, he passed most of his time in private conviviality."

General Howe was educated at Eton, and had been

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in the army since 1746, when he was made a Cornet in the Duke of Cumberland's dragoons at the age of seventeen. He had greatly distinguished himself in the expedition against Quebec under Wolfe, a comrade of his and an intimate friend. Howe led the forlorn hope of twenty-four men which forced the entrenched path when Wolfe's soldiers scaled the heights of Abraham, on the 13th of September, 1759. He commanded a brigade afterwards at the siege of Belle Isle, on the coast of Brittany, in 1761; and was adjutant general of the army at the conquest of Havana, in 1762. When the Seven Years War ended, no officer in England had a more brilliant record of service than Howe. He must have had feelings of kindness toward America, for besides the fact that many of the Colonists had once been his companions in arms, his eldest brother, George Augustus, Viscount Howe, was killed in the attack upon Ticonderoga, in 1758; and the people of Massachusetts had erected a monument to him in Westminster Abbey, "in testimony of the sense they had of his services and military virtues, and of the affection their officers and soldiers bore to his command."

General Howe had been opposed to the policy of the Government toward the Colonies, and had told his constituents in Nottingham, whom he represented

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in Parliament at the breaking out of the Revolution, that he would never accept a command in America.

The thought sometimes forces itself upon one's mind, in studying the career of this officer in America, and in the effort to understand his remarkable conduct of the war,—which was often remarkable rather for what he did not do than for what he did,—and his failures to act which are frequently inexplicable, that possibly this old friendship still influenced him, and that he preferred to sacrifice his military reputation, that he even chose rather to let Great Britain run the risk of losing her Colonies than by his exertions to bring back to subjection a people with whom he sympathized and whom he did not wish to conquer. It is true, indeed, that if this were so, then General Howe should not have been in America, and his conduct was neither soldierly nor loyal; for, in that event, he would have been arrayed in arms against those whom secretly he befriended, and he would have betrayed the trust reposed in him by his Sovereign in protecting thus the enemies of the King. We have no right to assume that this was certainly the case, but whether it were, or whether he was induced by some other secret purpose, there is no doubt, as the incidents of the next two campaigns will show, that he never did his utmost to

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attain the object for which he had been sent to this country, and that upon more than one occasion he actually thwarted the designs of Great Britain. He was an indolent and luxurious man who preferred leisure to activity; but this alone does not explain the case upon the ground of wilful neglect, for the frequent recurrence of the occasions during the war when he stopped almost in view of assured success appears strongly to indicate method and deliberation.

From the time of his having assumed command, in October, 1775, Howe remained inactive in Boston throughout the winter; closely blockaded and constantly more nearly pressed by the approaches of General Washington, who finally advanced to a commanding position upon Dorchester Heights, which he fortified within range of the shipping in the harbor as well as the troops of the British garrison. Thereupon Howe abandoned the place hastily, sent his men aboard the transports, and, without making an effort to defend himself, sailed away with his whole force to Halifax, in March, 1776. His object in going there, as it is stated by himself, was to wait until provisions and reinforcements could arrive from Europe, though Halifax was practically stripped of provisions during the winter, and Howe had with him nine thousand men including sailors. The British Secretary of War

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had contemplated the evacuation of Boston during the winter in favor of New York or some post farther south, but General Howe declared that Halifax was the only place where the army could wait, and thither he went, in the face of the consequences which were sure to be unfavorable to him. The criticism was made at that time, and is no doubt true, that if he had taken up a position upon Long Island, for instance, he would have been able to support his men with ease in a productive country, and he would still have been within contact with New York and New England, where his presence would at least have served to occupy the attention of part of the Continental army, whilst he might from there have watched the movements, and anticipated the designs, of the Americans. His complete withdrawal now left the field clear to them without molestation to raise and discipline the troops necessary to open the next campaign.

Nothing that he could have done, short of actual surrender, could so have animated the Colonists and stimulated them to new and greater exertions. The capture of Boston spread an enthusiasm throughout the country the effect of which can scarcely be overestimated. Everywhere it was hailed with delight as a glorious victory, which indeed it was; and Con-

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gress voted a gold medal for it to General Washington. At the same moment, Lord George Germain, the Colonial Secretary in the British Cabinet, "acquainted General Howe that, under the circumstances . . . the step which he very prudently took, of withdrawing from the Town of Boston, was entirely approved by the King, and in the execution of which he had given the fullest proof of His Majesty's Wisdom and Discernment in the choice of so able and brave an officer."

Howe's plan of campaign, as we gather it from his official communications to the War Office in London, was, to bring over as large a reinforcement as possible and to begin operations early the following spring by taking and holding New York; by sending a sufficient force to Rhode Island in order to interrupt united action in New England; and by keeping a garrison at Halifax to prevent any sympathetic movement from that direction in favor of the United Colonies. Unless a large force were sent from England early in the spring, he said, another defensive campaign would be the consequence, "for, by want of a force to act early, the rebels would have time to entrench wherever they chose; in which case, though we should get possession of New York without resistance, we must not expect to carry their entrenched

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camps but with great loss ; whereas, on the contrary, if the army were in force at the opening of the campaign, it would probably by rapid movements bring the rebels to action upon equal terms before they could cover themselves by works of any consequence ; . . . with a proper army of 20,000 men, having 12,000 at New York, 6000 at Rhode Island, and 2000 at Halifax, exclusive of an army for the province of Quebec, the present unfavorable appearances would wear a different aspect.” (15 January, 1776,—from Boston, to Lord Dartmouth.)

In reply to this, the Colonial Secretary assured him that considerable reinforcements should be sent to him in the spring, and acquainted him that through the negotiations made with certain German Princes, there would be a large number of auxiliaries ; of these, more than 12,000, being the whole body of Hessians, were intended to serve in his army, whilst the Brunswickers, Waldeckers, and the regiment of the Hereditary Prince of Hesse were to serve in Canada. He expressed his opinion that this latter army would advance into the Colonies by the passage of the Lakes.

At this early moment we see evidences of the plan which was ultimately attempted by the British Ministry : namely, to use New York as a base of operations,

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to gain the Hudson River and separate the middle Colonies as much as possible from New England, and to join hands between the two divisions of the King's army by an expedition from Canada toward the South. The resources of Great Britain having failed, however, to produce a sufficient number of men for these enterprises, recourse was had to subsidizing or, as it really was, to *buying* foreign troops. The British Government entered into treaties with the Duke of Brunswick, the Landgrave of Hesse-Cassel, the Hereditary Prince of Hesse-Cassel, and the Prince of Waldeck, by which, as appears from the original documents, those potentates agreed to furnish about 18,000 men, at the rate of £7 4s 4d per man; all extraordinary losses in battle or otherwise to be compensated by the King. In addition, the Duke of Brunswick received an annual salary of £15,519 so long as his men received pay, and double the sum for two years after; the Landgrave of Hesse £108,281 per annum and twelve months' notice before payment should stop, after the return home of his troops. The smaller Princes were proportionately compensated, and they were all guaranteed against foreign attack whilst their subjects were thus employed abroad. It is said that Frederick the Great looked with such contempt upon this sort

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of recruits that he threatened to tax them as it was the custom to tax cattle, when they were driven through his dominions upon their way to America.

Having lain at Halifax for more than two months, General Howe decided now to move toward New York in order to meet there the expected reinforcements and to open the campaign with so great a superiority over the Continental army as to produce an immediate result. He arrived at Sandy Hook on the 29th of June, 1776, and proceeded to land at Staten Island, where he was joined a few days later by the fleet from England, under his brother, the admiral, Lord Howe, with a detachment of finely-equipped troops provided with artillery, ammunition, and every preparation for war which was then known to military science. This gave him, besides the control of the navigable waters, an effective force of 30,000 men; and it must be admitted that, if that army had been directed with even reasonable enterprise and skill, there was nothing in America that could have resisted it. The use which Howe made of his opportunity is astonishing. After having halted upon Staten Island for two months, during which he was awaiting the arrival of a small portion of his command, he did not open the campaign until the end of August, when he began his operations by attacking General

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Washington's army upon Long Island. The American Commander-in-Chief had rightly judged, after the evacuation of Boston, that the next point of interest to the British would be New York; and he had turned his whole energy into that direction, accordingly, in order to be ready to defend it against the enemy when they should reappear. He had strengthened the works upon New York Island, and, aided by the British delay, had erected a fort at the northern end of it which was called Fort Washington, with another on the opposite side of the river, in New Jersey, afterwards called Fort Lee, and the channel of the river had been obstructed by hulks of vessels and *chevaux-de-frise*; batteries were erected also along the North and East Rivers; King's Bridge was fortified and the whole island put into as good a state of defence as was possible under the circumstances. General Washington's force which was opposed to the formidable British armament consisted of some nine thousand men,—increased later by fresh enlistments to fifteen thousand,—many of them militia fresh from home, totally unaccustomed to the discipline of the army and the exposures of the camps, which produced much sickness among them. This army of defence was necessarily widely distributed at different points from Brooklyn to King's Bridge,

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over a space of more than fifteen miles. General Washington had also posted a strong detachment at Brooklyn, and had secured that part of Long Island at the point immediately opposite New York by a chain of entrenchments and redoubts running along the high ground from Wallabout Bay, the site of the present Navy Yard, to Gowanus Cove; whilst on the water side batteries were erected at Red Hook and on Governor's Island.

It is worthy of mention that the admiral, Lord Howe, had brought with him to America a commission from the King which gave authority to himself and his brother for the establishment of peace and the restoration of harmony between the Mother Country and the Colonies, and it is exceedingly probable that Sir William Howe hoped to put an end to the war in that manner; there is strong reason to believe that his concentration of the army at Staten Island for so long a time, in conjunction with the imposing fleet of Admiral Howe, was intended by him to impress itself upon the minds of the Continentals with the purpose of inducing them to take steps toward a treaty, which he would have accepted with exceeding gratification. It was found, however, upon discussing the question in view of a communication sent by Lord Howe and his brother to Con-

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gress, that the powers of the British commanders for making peace consisted chiefly of the right to grant pardon in the name of King George, and General Washington replied to their messenger that "men who had done no wrong required no pardon"; after which further negotiations in that direction became impossible.

It is to be remembered also that it was after Sir William Howe's landing at Staten Island, and, indeed, after the arrival of his brother's fleet from England, that the Continental Congress enacted the Declaration of Independence.

General Howe began hostilities at length on the night of the 26th of August, having landed his troops upon Long Island, in Gravesend Bay, a little to the right of the Narrows. The American forces, some ten thousand strong, were encamped upon the ground where the city of Brooklyn now stands, with a system of entrenchments which extended along their whole line to protect them in front. Beyond these entrenchments and running parallel with them was a range of hills which separated the American camp from the position taken up by the British. The key to the situation lay in the occupation of these hills, over which there were several passes with roads leading through them. General Putnam, who

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commanded the post at Brooklyn, had thrown forward a strong detachment, under General Sullivan and General Lord Stirling, to defend the hills against the evident intention of the British to gain possession of them. The two armies were then separated by a distance of about four miles; the British having been thrown into three divisions, with the Hessians under de Heister in the centre; a column under General Grant on the left toward the Bay; and another, under Lord Percy, Earl Cornwallis, and Sir Henry Clinton, on the extreme right near the opposite shore at Flatland.

Before daybreak on the 27th of August, the day upon which the battle took place, the British under Clinton succeeded in occupying one of the passes through the hills, by which he was enabled without detection to throw forward his right and obtain a flanking position behind the American's left, under Sullivan. Early in the morning the action began and an exceedingly heavy cannonade took place upon both sides. Grant and de Heister advanced upon Lord Stirling and Sullivan respectively, and very soon the firing upon their left disclosed to the Americans the fact that they had been flanked and were then in danger of being surrounded and driven by the Hessians in front upon the British behind, and so

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back again. The only hope lay in a retreat toward the entrenchments. This was accomplished by a portion of the Continental troops; but the rout became general, many were killed upon the field, others were engulfed and drowned in the swamps, and at least a thousand rank and file were made prisoners, among whom were both the generals Sullivan and Stirling. The whole British force, which had suffered comparatively little, advanced now upon the American entrenchments and against them its attack was concentrated, both officers and men made confident by the outcome of their operations, which, it must be admitted, had thus far been highly successful. But at this point occurred one of those strange incidents which mark the campaign, and which it is now impossible to account for. General Howe gave orders to stop the engagement and withdraw the troops. His explanation of this step, given afterwards before a committee of Parliament, was that: "As it was apparent the lines must have been ours at a cheap rate, by regular approaches, I would not risk the loss that might have been sustained in the assault, and ordered them back to a hollow way in front of the works, out of reach of musketry."

Stedman tells us that the courage of the British troops, on this occasion, "was so impetuous that it

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was not without difficulty that they could be restrained from attacking the American lines;" but Sir William Howe declared that, "admitting the works to have been forced, the only advantage we should have gained would have been the destruction of a few more men," and, "in this instance from the certainty of being in possession of the lines in a very few days by breaking ground, to have permitted the attack in question would have been inconsiderate, even criminal." This reasoning, however, is not adequate; for the result proved that he was not in possession of the lines by having captured them within a few days; and we know that if he had taken them by assault during the action of the 27th of August, and had made the American garrison prisoners, he would have gained a victory which would have shaken, if indeed it had not completely broken, the power of resistance in the Colonies. There is no conceivable reason why, with his greatly superior armament, and with the aid of the British fleet to hem them in on the water side, he should not have done this if he had chosen. He sat down, however, in front of the American works and broke ground for a regular approach upon the following day, the 28th, and he gave General Washington an opportunity to perform one of the most daring and brilliant

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feats of the war,—in carrying out which, on the night of the 29th, he evacuated his lines, put his men into the boats and slipped across the East River to New York. Indeed, too much can scarcely be said in praise of this achievement upon the part of the Continental Chief. Even the British were struck by it with admiration. “The circumstances,” wrote Stedman at the time, “were particularly glorious to the Americans. They were driven to the corner of an island, where they were hemmed in within the narrow space of two square miles. In their front was an encampment of near twenty thousand men; in the rear an arm of the sea a mile wide which they could not cross but in several embarkations. Notwithstanding these difficulties they secured a retreat without the loss of a man.” Whilst the British were stubbornly laying out their regular approaches in his front, General Washington stole from under their eyes, and in the space of thirteen hours passed over the river his nine thousand men, besides artillery, ammunition, provisions, cattle, horses and carts; and this in the same boats by which he had brought his men over, they still having lain at their moorings undisturbed by the British, who never thought of taking or destroying them to cut off a retreat. The indefatigable American Commander was constantly

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upon the ground during this battle of Long Island; and from its commencement, on the morning of the 27th, until the troops had crossed the East River, on the morning of the 29th, he was most of the time on horseback.

Although the Continental army had thus escaped capture or destruction, the defeat at Long Island had a disastrous effect upon the minds especially of those who had been called into service for only a short time, and it left General Washington in serious embarrassment. "Our situation," said he, "is truly distressing. The check our detachment sustained on the 27th has dispirited too great a proportion of our troops, and filled their minds with apprehension and despair. The militia are dismayed, intractable, and impatient to return," and, "their example has infected another part of the army." Whilst their earlier contact with the British army at Boston had led the Continentals greatly to overestimate their own powers at that time and to discredit the training which makes a seasoned and reliable force, so now, the sight of the dangers by which they had been surrounded in this late engagement broke their confidence and excited alarm, as might have been expected from troops without experience, discipline, or knowledge of war. A vigorous and well-sustained assault

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by General Howe at that moment could not have failed to give him a decisive advantage, and one which probably would very greatly have changed the course of events in America. What followed, however, was upon the British side neither vigorous nor well-sustained. These movements, most interesting in detail, may be mentioned only in passing now; though well worthy of the careful attention of American students. Immediately after the victory at Brooklyn, preparations were made to attack New York. A part of the British fleet sailed around Long Island and entered the Sound, whilst several of the frigates moved up the Hudson River, easily passing the batteries of Fort Washington on one side and Fort Lee on the other, and unhindered by the *chevaux-de-frise* which had been intended to close the channel. By the middle of September they had forced General Washington farther and farther to the north of New York Island until, in order to prevent himself from being cut off by the enemy who had now landed at Kip's Bay, about the present Thirty-fourth Street, he had withdrawn to King's Bridge, which he had strongly fortified, and held the heights of Harlem, upon which he maintained an entrenched camp. The British, in the meantime, in full possession of New York, lay with their main body near the American

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lines, their right resting upon Horen's Hook, on the East River, about the present One Hundredth Street, and extending across the upper part of what is now Central Park, their left reaching to Bloomingdale. Thus, during more than two weeks, the British had taken no decisive step to follow up their advantage at Brooklyn, but, on the contrary, by easy movements they had given General Washington what was most serviceable to him, time to encourage his men and, by slight skirmishes here and there, to enure them to their situation in front of an organized force; while each day that passed wore away the season and wasted the opportunity for an active campaign.

In this manner another month was consumed; General Washington had abandoned New York Island; Howe had landed his main body at Pell's Point, on the Sound, and had moved forward through Pelham Manor toward New Rochelle. By the middle of October the Americans had retired to a strong position at White Plains, extending some twelve or thirteen miles in a series of entrenched camps on the different heights from Valentine's Hill near King's Bridge to White Plains, fronting the British line of march and the river Bronx which lay between them, and ready to concentrate at any point as it might become necessary.

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At the end of October followed what is known as the battle of White Plains. Two months had already passed since the action upon Long Island, and it appeared very likely that at last General Howe was about to redeem his lost opportunities for action by an enterprise which his present situation almost in front of the American camp seemed to invite. But after an attack upon a detached portion of the Continental troops who occupied a portion so remote from the camp that its capture, which was effected with the loss of rather a large number of men, could serve no purpose, and after threatening a general engagement, which he declared he had postponed on account of a heavy rain, he suddenly withdrew his army and retired toward New York.

It was incredible that he should seriously intend at that moment to abandon the campaign; it seemed as if this must be either a strategic movement of some sort or an attempt to draw the Americans down from their strong position to one where they could be attacked with advantage. General Washington wrote:

“On Tuesday morning the enemy broke up their encampments, which were in front of our lines, after having remained there several days without attempting anything. They have gone

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toward the North River, and King's Bridge. This sudden and unexpected movement is a matter of speculation. Some suppose they are going into winter quarters and will sit down in New York, without doing more than investing Fort Washington. I cannot subscribe wholly to this opinion myself. That they will invest Fort Washington is a matter of which there can be no doubt; and I think there is a strong probability that General Howe will detach a part of his force to make an incursion into the Jerseys, provided he is going to New York. He must attempt something on account of his reputation; for what has he done as yet with his great army? Persuaded that an expedition to the Jerseys will succeed his arrival at New York with a detachment of his army, as soon as I can be satisfied that the present manœuvre is a real retreat and not a feint, I shall throw over a body of our troops, with the utmost expedition, to assist in checking his progress."

Thus ended the series of operations which were started at Brooklyn, but which had produced as yet no considerable result; and now began, as Washington had predicted, an attempt upon New Jersey, opening, as it naturally did, with the capture of Forts Washington and Lee. Fort Washington had been retained as a post of importance to the American cause on account of its situation, which it was hoped would still enable the Continental army to

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control the navigation of the Hudson. But the British frigates had already run by, as we have seen, and yet the fort was held, although against the judgment of the Commander-in-Chief, by special direction of Congress. The garrison made a gallant defence, but was forced to capitulate, early in November. If General Washington's advice had been taken,—for in this case he did not make his orders peremptory,—the losses of men and munitions of war, the latter of which was especially great, would have been avoided both at Fort Washington and Fort Lee. “Upon the passing of the last ships,” said he, “I had given it as my opinion to General Greene, under whose care it was, that it would be best to evacuate the place; but as the order was discretionary, and his opinion differed from mine, it unhappily was delayed too long, to my great grief; as I think General Howe considering his army and ours, would have had but a poor tale to tell without it, and would have found it difficult to reconcile the people of England to the conquest of a few pitiful islands, none of which were defensible, considering the great number of their ships and the power they have by sea.”

Assured that active measures were now to be taken, Washington prepared himself as best he could for the encounter with his adversary; and, as we

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approach the famous retreat through New Jersey, it is well to remember the strength and condition of these two opponents, in order the better to estimate the relative value of the services rendered by the one and the other, through the series of remarkable incidents which followed. The figure of Washington stands out in splendid relief in the midst of his trials and disappointments and disheartening privations, as the one invariable element of strength exerting its influence upon the country, when misfortune and reverses had driven the American patriots almost to desperation. There was probably no time during the exceedingly varied experiences of his life when his moral courage, his wise judgment, his unselfish devotion to the interests of his countrymen, his prudence, fortitude, and determination, as well as his power to lead and to govern men, illustrated more fully than during this winter of 1776, in New Jersey, the exalted character of that truly great man. No feeling of mere sentiment needs to be invoked in his behalf on the part of a nation grateful for its liberty and its existence. The page of history records for us his deeds; and his letters, written by his own hand, which fortunately we still possess, are the sources of inspiration to every man, to every soldier, who respects himself and loves his country.

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We reach a low ebb in the affairs of American independence during the few weeks that still remained before the end of the year 1776; a period at which it seemed indeed as if the struggle for liberty must fail for lack of further strength. Whilst General Howe was lying with his army at New Rochelle, and just before his movement toward White Plains, his already formidable army was reinforced by the arrival from England of a new detachment of Hessians under General Knyphausen, so that he was now in possession of a force such as had never before been seen in America. On the other hand, General Washington was losing even the strength he had, by the return home of the regiments whose term of enlistments had expired. Fearing that he should be weakened to such a degree as not to be able even to make a show of defence, he appealed to the New England States to call out their militia to his aid. "The situation of our affairs is critical and alarming," he said; "the dissolution of our army is fast approaching, and but little if any prospect of levying a new one in a reasonable time. Large numbers of it are now on the eve of their departure and this at a time when the enemy have a very numerous and formidable force, watching an opportunity to execute their plans and to spread ruin and devastation among

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us. The propriety of this application," he added in asking for the militia, "I trust will appear when it is known that not a single officer is yet commissioned to recruit, and when it is considered how essential it is to keep up some show of force and shadow of an army."

Howe knew the condition of his opponents; there can be no doubt of that, for he was in constant communication with the country, especially through numbers of loyalists who went to him to take the oath and embrace the offers which he and his brother made as commissioners from the King. If he had struck a blow then, there is every reason to believe that he would have crushed out resistance in America; for the war had broken out at a time when the whole country did not contain military supplies enough to sustain a prolonged contest, and already the quantity was being exhausted. Why he did not do so, it is impossible to tell.

General Washington having sent about five thousand men across the Hudson, and leaving General Charles Lee behind with seven thousand Continentals and Militia to make sure of Howe's movements, crossed over into New Jersey and took command there himself on the 12th of November. Howe, who had posted his main body upon New York Island,

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now detached Earl Cornwallis with some five thousand regular troops to take possession of New Jersey. Cornwallis easily captured Fort Lee, which Greene held against the advice of the Commander-in-Chief, just as he had done Fort Washington upon the opposite bank of the river, and with the loss of which he now also lost all his blankets, baggage, three months' provisions, and left over four hundred tents standing and all his cannon but two; a loss which the difficulty of procuring these things at that time made doubly serious.

Cornwallis advanced immediately, and Washington was driven helplessly before him, first across the Hackensack River and then over the Passaic, to Newark, where he had arrived on the 22nd of November. From Newark he sent the most pressing calls to Lee, who was still beyond the Hudson, to hasten forward and join him; calls which Lee, from wilfulness and apparent jealousy, refused to obey. After maintaining himself for five days, always hoping to be reinforced by Lee, and sending out General Reed, a native of New Jersey, to beg the people of that State for militia, for help of any kind in the danger that threatened, and Mifflin to Pennsylvania upon a similar errand, he withdrew from Newark just as the advanced guard of Cornwallis' force was entering

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the town. Retreating still further over ground which it was impossible for him to hold, he arrived on the 28th of November at Brunswick, where he halted for two days during which he had to suffer the loss of nearly half of his men, whose terms expired at the end of that month and who claimed their discharge.

On the first of December he wrote again to Lee: "The enemy are advancing and mean to push to Philadelphia; the force I have with me is infinitely inferior in numbers, and such as cannot promise the least successful opposition. I must entreat you to hasten your march as much as possible, or your arrival may be too late." That same day Cornwallis entered Brunswick, and Washington, breaking down the bridge across the Raritan, withdrew to Princeton. He had now only three thousand men; and they were wretchedly equipped and clothed. Cornwallis' superiority of force alone bore down everything before him and enabled him to go where he would. But at this point we see another example of that purpose of General Howe which reappears so strangely and unexpectedly at various critical moments during the war: He ordered Cornwallis to halt at Brunswick.

Absolutely unchecked by any obstacle but the commands of his superior, and chafing under the restraint thus put upon him, the British General halted for a

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week, whilst General Washington, who was seventeen miles distant, at Princeton, had time to withdraw all his baggage and heavy cannon to Trenton, twenty miles away. Stedman's contemporaneous account of this event presents it as "an order which saved the panic-struck and fleeing army of the Americans from utter ruin." "The Raritan," says he, "is fordable at that place in every recess of the tide; and had the noble General (Cornwallis) been left to act at his own discretion, he would have pursued the weakened and alarmed enemy to the Delaware, over which they never could have passed." It must be admitted that the danger was imminent. But Howe was not equal to the occasion. In his official statement in this connection he says: "I should have been highly blameable, had I ordered the noble lord to have followed the enemy beyond Brunswick, when the whole of his corps had not joined him." Instead, however, of concentrating his force in New Jersey, where it might have been said that circumstances called for it, General Howe and his brother, the admiral, determined to send a large detachment into New England, where no danger existed and where no warlike activity made its presence necessary. At the moment when hostilities might have been ended at one stroke, the British commanders sent away two English and

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two Hessian Brigades under Sir Henry Clinton, with whom were General Prescott and the Earl Percy, to Newport; a force which took seventy transports and eleven ships of war to a point where it lay unemployed during the next three years.

Whilst this was taking place Howe had joined Cornwallis with a considerable additional force at Brunswick, and prepared to move out toward Princeton; which place General Washington abandoned one hour before the British arrived. Howe halted in Princeton seventeen hours, and upon the following day leisurely continued to Trenton, where he arrived, says Stedman, "at four o'clock in the afternoon; just when the last boat of General Washington's embarkation crossed the river, as if he had calculated, it was observed, with great accuracy the exact time necessary for his enemy to make his escape."

General Washington had succeeded in wasting the time of his opponents until the cold and disagreeable weather had come on; and, as he had expected, they decided not to continue hostilities. He had gone safely across the Delaware into Pennsylvania; he had preserved at least a nucleus of an army, and with this he was able to collect out of the reach of the British all the boats up and down the river so that they could not follow him. He had now the satis-

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faction of seeing them close the campaign and settle themselves in winter quarters. The cantonments of the British troops stretched through New Jersey from the Delaware to the Hackensack; the most important post, at Trenton, being occupied by a brigade of Hessians under Colonel Rahl, and that at Bordentown, a few miles south of it on the river, by Count Donop with four Hessian brigades.

Cornwallis went back to New York where a vessel lay which was prepared to take him to England on leave; and Howe returned also to New York City to lead the life he loved, of merriment and dancing and gambling, with his bottle at hand and his mistress to keep him company, before a comfortable wood fire which made him forget both the cold outside and the war. "Our Commander has been enjoying his pleasures as usual," says a letter from New York at that time. "What do you think of the favorite Sultana losing 300 guineas in a night at cards, who three years ago would have found it difficult to have mustered as many pence? Don't you think this lady in high luck? As to the husband, his various places are reckoned £6000 a year; it is said he does not save a shilling; yet he looks fat and contented."

Far different was the situation during this time of the Americans. Away across the Delaware their

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camp fires were still burning; the snows and storms had not sent them into comfortable winter quarters; indeed, there were no such places for them.

But we shall see, upon another occasion, how General Washington turned upon the enemy, and by his glorious achievements at Trenton and at Princeton encouraged the nation to new efforts which thrust away defeat and led on ultimately to victory and success.

II

It is rarely, if ever, that a case can be found so dangerously bad without proving fatal as that of the American army and the independence of the United States at the close of the year 1776, and it is impossible to see how either could have survived this crisis if the forces of the enemy had been directed against them with even ordinary military vigor. The people of New York and New Jersey were disheartened by the continued reverses which had fallen upon the Continental arms, and, now that the British held actual possession of their territory, they not only hesitated to take active part in the armed resistance but very many went over to the royal standards, claiming the indulgence offered by the King's Admiral and General; and their example was making

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itself felt in Pennsylvania as well. General Washington's situation was one of extreme difficulty and danger. His army, made up largely of militia which had been called out for short terms, was dwindling away. "I have no doubt," said he, "but General Howe will still make an attempt upon Philadelphia this winter. I foresee nothing to oppose him a fortnight hence, as the time of all the troops, except those of Virginia, now reduced to almost nothing, and Smallwood's regiment of Marylanders, equally as low, will expire before the end of that time. In a word, if every nerve is not strained to recruit the new army with all possible expedition, I think the game is pretty nearly up, owing, in a great measure, to the insidious arts of the enemy, and disaffection of the Colonies, but principally to the ruinous policy of short enlistments and placing too great dependence on the militia, the evil consequences of which were foretold fifteen months ago with a spirit almost prophetic." (To John Austin Washington, 18 Dec., 1776.) "Upon the whole," he wrote, "there can be no doubt that Philadelphia is the object of the British and that they will pass the Delaware as soon as possible. Happy should I be if I could see the means of preventing them; at present, I confess, I do not. All military men agree that it is a work of great diffi-

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culty, nay impracticable, where there is any extent of coast to guard. This is the case with us, and we have to do it with a force, small and inconsiderable, and much inferior to that of the enemy. . . . Our little handful is daily decreasing by sickness and other causes; and, without aid, without considerable succor and exertions on the part of the people, what can we reasonably look for, or expect, but an event that will be severely felt by the common cause, and that will wound the heart of every virtuous American, the loss of Philadelphia?" (To Congress, 12 Dec., 1776.) "The subject is disagreeable, but yet it is true."

The experience of General Washington in the use of militia instead of regular troops in the extended and continuous operations of a campaign is exceedingly interesting and is valuable also as a matter of history, because militia were more thoroughly tried during the Revolutionary War than upon any occasion of modern times, and the constant complaint which we find Washington making to Congress shows with what an unsatisfactory result. "They come in," he said, "you cannot tell how; they go, you cannot tell when; and they act, you cannot tell where; they consume your provisions, exhaust your stores, and leave you, at last, at a critical moment." (To

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Congress, 20 Dec., 1776.) And he gave it as his opinion, at this period of the war, that the saving in the articles of stores, provisions, and a thousand other things, by having nothing to do with the militia unless in cases of extraordinary exigency and such as could not be expected in the common course of events, would amply support a large army, well officered, which would be daily improving, instead of continuing a destructive, expensive, and disorderly mob. Indeed, he declared that, if forty thousand men had been kept in constant pay since the commencement of hostilities, and the militia excused from doing duty during that period, the country would have saved money. (To Congress, 5 Dec., 1776.)

General Washington found himself now, at the middle of December, with but three thousand men, facing the hardships of an unusually cold winter against which they not only had no preparation, but many of them were even without ordinary clothing and shoes. Behind him and about him was a country the inhabitants of which were upon the verge of abandoning further attempts to support a losing cause; in front of him an army strong in numbers, well provided with equipment, perfectly disciplined in the field, waiting only for suitable weather in order

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to continue its triumphant march and, by the capture of Philadelphia, to put an end to the war. Added to his other perplexities, he received the news that General Lee, whose arrival he was anxiously awaiting, and to whom he had written the most earnest appeals to come on from the Hudson with the force which was left behind under his command, had been captured, in a manner not at all creditable to himself, by the enterprise of a young English officer and was now a prisoner with the British. In the intensity of his feeling, Washington exclaimed: "No man, I believe, ever had a greater choice of difficulties, and less means to extricate himself from them." And yet, in the next breath he added, with that confidence which never deserted him: "However, under a full persuasion of the justice of our cause, I cannot entertain an idea that it will finally sink, though it may remain for some time under a cloud." (To J. A. Washington, 18 Dec., 1776.)

The conduct of Washington at this point is one of the finest examples of his determined courage in adversity, of which we have many others in the course of his varied and active life. It is an index to that exalted character which influenced the whole nation; by which he encouraged the weak, aided the strong, and took the lead through the intricate paths along

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which they were travelling. With a firm step and a perfect self-control such as no other man of his time possessed, he determined now to press on in the face of the obstacles that lay before, in spite of the enemies who were about him. It was a moment so critical that without some immediate and effective remedy there was grave danger that all would be lost. Congress had adjourned in Philadelphia, and, in apprehension of the approaching British army, retired to a safe distance at Baltimore; the feeling in England was one of assured triumph, as the gratifying reports were announced at the Court that Lord Cornwallis was carrying everything before him in New Jersey. They inspired the Cabinet and the people to believe that the rebellious Colonists would soon be punished as they deserved, that peace was about to return, and, with it, glory to the British arms. King George wrote with a comfortable feeling of success that: "Nothing can have been better planned nor with more alacrity executed, than the taking of the City of New York, and I trust the rebel army will soon be dispersed." And Lieutenant General Howe was receiving at New York the Order of the Bath, sent over to him as a mark of distinction for his conduct of the campaign, by a grateful sovereign.

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Meanwhile, General Washington, still on the Delaware, said: "Before I removed to the south side of the river I had all the boats and other vessels brought over, or destroyed, from Philadelphia upwards for seventy miles, and by guarding the fords, I have as yet baffled all their attempts to cross. But from some late movements of theirs I am in doubt whether they are moving off for winter quarters, or making a feint to throw us off our guard." (To J. T. Washington, 18 Dec., 1776.) "As nothing but necessity obliged me to retire before the enemy and leave so much of the Jerseys unprotected, I conceive it my duty, and it corresponds with my inclination, to make head against them so soon as there shall be the least probability of doing it with propriety." (To Congress, 5 Dec., 1776.) Since he was convinced that the withdrawal to winter quarters was not a mere deception on the part of Howe, and strengthened by the arrival of reinforcements (Lee's force, which was now brought up by General Sullivan, and by some twelve hundred recruits hastily mustered in Pennsylvania), Washington decided to attack the enemy in their cantonment at Trenton. It was a daring enterprise which required the utmost energy and caution in its management. It involved the crossing of the Delaware, which had not as yet frozen

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over but was filled from one shore to the other with blocks of floating ice; and it presented the danger of meeting, at the end of a fatiguing march, an enemy quite fresh for action and prepared to resist an attack. It offered this encouragement, at least, on the other hand, that the Hessians felt perfectly secure from molestation during the rest of the winter; that Colonel Rahl, the Commandant at Trenton, ridiculed the idea that the Americans might undertake an operation against his veterans; and that he had taken no precaution to protect the approaches to his position by outworks, or to fortify any of the strongest buildings in the town itself. Every consideration of reason and expediency impelled Washington to some active measure by which to revive the spirit of the people.

Therefore, having completed his plans, Washington fixed upon the night of Christmas for the execution of the undertaking. He had about twenty-four hundred men able to accompany him, rugged patriots from New England, Pennsylvania, and Virginia; among them an array of names now well known and revered by the people of the United States. There were the Generals: Greene, Mercer, Stirling, and Sullivan; Stark, of New Hampshire; Hand, of Pennsylvania; Glover and Knox, of Massachusetts; Webb,

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of Connecticut; Scott and William Washington and James Monroe, of Virginia; and Alexander Hamilton, of New York. The plan was, to march up the bank of the Delaware and to cross at Makonkey's Ferry, far enough above Trenton to escape the notice of the enemy; and then to march down on the New Jersey side and attack them. At three o'clock in the afternoon of Christmas they set out from their camp, each man carrying three days' provisions and forty rounds, and they had eighteen field-pieces. It was nearly dark when they reached the ferry, where the river was running with a strong current which carried along rapidly the masses of floating ice. General Washington called for volunteers to lead the way, and the sailors from Marblehead stepped forward to man the boats. The night came on exceedingly cold; the increasing quantities of ice made it hard to stem the current; the wind was high, and at eleven o'clock it began to snow. It was three in the morning before they were all set over, and they spent another hour forming upon the other side. About four they began their march of nine miles to Trenton, in the face of a violent northeast storm of wind and sleet that had now set in. The hard-frozen roads cut into their feet, so that a small party coming up afterwards were able to follow their route by the blood

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marks upon the ground left by those who had broken shoes. For some distance they had to ascend a steep incline and then the road ran through hills heavily covered with timber; after passing these the force was divided, one detachment, under Sullivan, keeping close to the river bank, whilst the rest proceeded with General Washington himself along what is called the upper, or Pennington, road. Sullivan, who had somewhat the shortest line of march, halted at the outskirts of Trenton to allow the others time to come up, sending word meanwhile to the Commander-in-Chief that his arms were wet. "Tell your General," said Washington, "to use the bayonet, for the town must be taken and I am resolved to take it."

It was now broad daylight, but the Hessians were still undisturbed; the night-watch had turned in, having reported all well, leaving only the advanced sentries to keep the guard. Washington attacked the outpost on the Pennington road and entered the town by King and Queen Streets, now called Warren and Greene. Sullivan pushed up from the river road and joined the other detachment so promptly that it gave the Hessians, who were now thoroughly alarmed, no time to form. Their battalions were hastily called together, but in the face of so sudden an attack, supported by the fire from a battery which

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General Washington had ordered into position, they became hopelessly confused and were unable even to make a retreat. Colonel Rahl, summoned from a sound sleep which followed upon a night of carousing, with which he had no doubt been celebrating the holiday, mounted his horse, and, reeling in the saddle, attempted to put himself at the head of his troops. The action lasted thirty-five minutes, during which the Americans did not lose a man. Of the Hessians a few managed to escape, but almost the whole garrison was captured. Colonel Rahl was killed by a musket ball, and General Washington found himself in complete possession of Trenton, with about nine hundred and fifty prisoners; with them were taken twelve hundred small arms, six brass field-pieces, and all the standards of the brigade. If his entire plan had been carried out, by which two other detachments were to cross the Delaware lower down, to co-operate with him after the attack upon Trenton, he intended to force the British farther back into New Jersey and to break up some of their other cantonments. But the violence of the storm on the 25th, and the ice floating down the stream, had prevented them from crossing; therefore it was evident, since he was not strong enough to make head alone against the British, and encumbered now with

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nearly a thousand prisoners, that his only expedient was to regain his former position beyond the Delaware. Without taking time to rest his tired men, he set out at once in spite of the driving northeast storm which still continued, and, after a second night of exposure and immense labor at the ferry, landed his force safely, on the 27th, and went back to camp.

The results of this little victory were of the greatest moment. It marks, indeed, one of the great turning points of the war; it may very confidently be said to have saved American independence. There were years of hardship still ahead of the Americans before the struggle was finished, and occasions when the prospect was dreary enough; but there was never a point again at which the country was so disheartened by the reverses of a contest in which, without allies and without encouragement, it had no established confidence in its own strength. During the crises which followed in subsequent campaigns, the nation had the open support of France, the tacit approval of Spain, and each year that passed left a greater feeling of self-possession among the people, who, in spite of the imposing prestige of Great Britain, had not been conquered. At Trenton, however, the idea of success was new, and it came as a restorative of which the invigorating effects were felt for-

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ever after. The country heard of it with astonishment; it gave rise even to the most expressive demonstrations of joy; the Hessian prisoners were taken to Philadelphia, where they were paraded through the streets in order to show the people that these things were really true. On the British side the surprise was at least equally great; it stirred for a moment even the lethargy of Sir William Howe, who ordered Cornwallis to abandon his furlough to England and return to the command of his troops in New Jersey.

General Howe was highly censured by the British military critics for this affair. They blamed him, and it is a criticism made at the time, for having placed his cantonments so far apart that it was impossible for them to support each other in the event of attack; for having massed his strongest detachments at the greatest distance from the front; and for having entrusted so important a post as Trenton to Rahl, who is described by a British officer (Stedman), as having "been totally unfit for the station he held," and "obstinate, passionate, and incessantly intoxicated with strong liquors." General Howe's defence of this situation, as given officially to Parliament, was, that his first intention had been to make Brunswick the left, and either Elizabeth or Newark the right, of the cantonments, "and," said he, "my

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reason for extending to Trenton was, that a considerable number of the inhabitants came in with their arms, in obedience to the proclamation of the Commissioners. I took upon me to risk that post under the command of a brave officer, with the support of Colonel Donop at Bordentown, five miles distant, with a very strong corps. The left was the post of the Hessians in the line, and had I changed it upon this occasion it must have been considered as a disgrace, since the same situation was held in the cantonments as in the camp. And it probably would have created jealousies between the Hessian and British troops, which it was my duty to carefully prevent." An apology which, after all, explains rather than justifies his action, for if he felt obliged to give the Hessians their position on the left, his duty certainly was to see that his advanced posts opposite the enemy's line were properly guarded, no matter to whom they had been assigned; and Howe is forced to admit that Rahl had not erected redoubts at Trenton as he should have done, as he had ordered him to do; and, said he, "if Colonel Rahl had obeyed his orders I sent him for erecting the redoubts, I am confident this post would not have been taken." But why did not Rahl obey his orders, and, if he failed to do so, why was it not known at headquarters? General Howe's own narra-

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tive shows how little control he had of the situation; for he declared: "My principal object in so great an extension of the cantonments was to afford protection to the inhabitants, that they might experience the difference between his Majesty's Government and that to which they were subject from the rebel leaders."

The result which he produced by this policy in New Jersey was, that he cured the inhabitants of any lingering desire which they might have had for the presence of the King's authority; the riotous conduct of his soldiers, their disregard of personal honor, the plundering by them of houses, and outraging of women, made their occupation of the territory an evil from which the people sought with eagerness to escape. We have the statement of the English military historian, Stedman, that, at Trenton, when the Continental army "had arrived in the town the troops in the British service were solely occupied in securing their plunder in wagons, and many of them were actually made prisoners while engaged in this shameful avocation." The unlucky Hessians had been promised before they left home that they should make their fortunes in America.

Having now broken up the British posts at Trenton and Bordentown,—for upon the capture of Rahl's

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detachment the other Hessian Commander, Count Donop, hurriedly abandoned his position and withdrew to Princeton where he joined the force under General Leslie,—Washington saw the necessity of taking advantage of his success thus far gained in order to strengthen the feeling of encouragement in New Jersey and Pennsylvania. To lie still might be looked upon as an evidence of weakness, which he could not afford to display either before friend or enemy. He crossed the Delaware again, therefore, on the last days of December and took up his position at Trenton to await the British, who he knew had been aroused by his unexpected attack and were advancing toward him in a strong body under Cornwallis. The detachment of Continental troops, which had failed to coöperate in the movement against Trenton, on account of the ice in the river, had also crossed to the New Jersey side and were lying at Crosswick's, under General Cadwalader, and at Bordentown under General Mifflin. He concentrated his force of nearly four thousand men at Trenton, where they arrived by a night march on the first of January. On the following day Cornwallis' troops appeared, as General Washington expected, and began to advance upon him about four o'clock in the afternoon.

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There is a small creek, called Assanpink, running through the town of Trenton, which formed at that time a considerable barrier capable of being defended. Behind this creek Washington extended his lines and prepared for the attack. But the British, finding upon their arrival that all the fords were well guarded, halted with their usual deliberation and kindled their fires for the night, confident that they could finish with General Washington in the morning. They were dealing with an adversary, however, whose necessities made him exceedingly wary and whose fertility in expedients in the face of grave and threatening dangers had enabled him thus far to hold the field, and yet to escape the full force of a blow from the great armament against which he was contending. It was not likely that such a leader would lie quietly by during the night in order that he might be led out to inevitable destruction by Cornwallis in the morning; and yet the British appeared to think he would do so. They fired their field-pieces across the creek until dark, with very little damage, and then sat down to wait until daylight. Their sentries marched up and down in sight of the American sentries, and from their camp they could distinctly see the American watch-fires burning brightly. Aware that their force was greatly

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superior to his own, and perceiving that their intention was to surround him, General Washington proceeded to extricate himself by an exceedingly well-planned movement, through which he avoided a direct retreat while it enabled him to get behind the enemy and strike them in the rear. This led to the memorable battle of Princeton.

He sent all his baggage very quietly to Burlington during the evening, and at twelve o'clock he set out, by a roundabout road, to Princeton, leaving his sentries behind, still marching back and forth in front of the British and adding fresh fuel to the watch-fires to keep them bright. "One thing I was certain of," said he, "that it would avoid the appearance of a retreat (which was of consequence—or to run the hazard of the whole army being cut off), whilst we might by a fortunate stroke withdraw General Howe from Trenton, and give some reputation to our arms. Happily we succeeded." (To Congress, 5 January, 1777.) He arrived about sunrise at Princeton, where the British Commander had left only three regiments and three troops of light horse, two of which were then marching toward Trenton. He attacked them at once, and, by Washington's own testimony, they "made a gallant resistance," but they were driven back in confusion, and when the action was

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over they had lost five hundred men; more than a hundred were dead upon the field and General Washington took with him three hundred prisoners to add to the thousand he had captured a few days before at Trenton. The American loss included several valuable officers, among whom was the brave and accomplished General Mercer, whose death was sincerely mourned throughout the country.

The astonishment was great at Trenton when day broke and the American camp was found deserted. Firing in the direction of Princeton disclosed the plan to Cornwallis, who now became seriously alarmed lest the Continentals might push on and seize Brunswick, where all his stores and magazines were placed, as well as also his military chest, which at that time is said to have contained twenty thousand pounds. This was indeed the intention of General Washington, but as some of his troops had chased the British in their flight three or four miles it required a little time to recover them, and, before this could be entirely completed, the rear of the British column, which lay at Maidenhead, only five or six miles from Princeton, and had now turned toward him, came up to his position. They were detained, however, at Stony Brook, half a mile from the battlefield, where Washington had taken the pre-

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caution to break down the bridge, which gave him time to withdraw his forces in good order in the direction of Morristown. In view of the exhausted condition of his men, who had then had no rest for two nights and a day, and fearing the danger of losing the advantage already gained by aiming at too much, he decided to relinquish any further attempt. Cornwallis hurried by a forced march to Brunswick, where he arrived before the following morning. The British General made no effort to pursue the American army, and General Washington withdrew to Morristown where, as he said, he should "endeavor to put his men under the best cover he could. Hitherto we have been without any; and many of our poor soldiers quite barefoot, and ill-clad in other respects."

His position at Morristown was an advantageous one in every respect; the country behind him was well cultivated and productive, so that he was able to obtain forage without difficulty; he was so situated in a hilly, rugged district that he was substantially out of danger of attack, and whilst he watched from there the movements of the enemy whom he constantly harassed by small parties during the winter, he was ready at any moment, in case of active operations, to attack the British flank if he saw fit, or to reach either the Hudson River or the

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Delaware. He had achieved a remarkable success since December, after having been forced into New Jersey and driven back, step by step, with an army which he himself considered not much more than a shadow, and pursued by a powerful and triumphant enemy. By his military skill and the indomitable energy of his own determination, he had so reversed the order of events that he was now actually master of the situation. He had fought the enemy twice within their lines and had crippled them by the loss of numbers of killed and wounded, as well as the considerable body of prisoners whom he had taken; he had saved Pennsylvania and the Delaware River and had so far recovered the State of New Jersey that the British, who a month before held it completely in their control, were now reduced to the possession of Brunswick and Amboy, from which they exerted no considerable influence upon the country.

With an inconceivable lack of enterprise, General Howe remained inactive in New York; the events of New Jersey apparently having exerted no influence upon his mind beyond the fact that they had occurred and that such things were likely to occur in time of war. He made no effort to retrieve his losses by immediate action, though he sent formidable dispatches to England in which he asked for more

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troops in order to begin the next campaign. As nearly as we are enabled by Sir William Howe's own declaration upon this subject to comprehend his purpose, it seemed to be, to mass such a force in America that it would simply bear down opposition by its own weight, in order that every town of importance throughout the country should ultimately be taken in this manner and occupied by a garrison, duly installed with proper military rules and method, within supporting distance of some other regularly-established garrison and that, the movements of the Continental army having been thus checked by the presence of the King's troops everywhere, rebellion must disappear,—it must die for want of nourishment. War appears with him always to have been theoretical; his plans were drawn with laborious precision and set down on paper for the war office. If they did not succeed as they were expected to do, the result was merely that there would have to be another campaign the following year, and so on. In the meantime the actual bearing of the situation was totally lost sight of; the advantage that might have been taken of partial success, by pushing on to further achievement, was never availed of by him; the ability to anticipate the purposes of the enemy, and the quick move to thwart them, which distinguished the

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conduct of Washington throughout the war, was lacking in his method. A disinclination to break with ancient rules of war held him bound to conventional necessities, even when imaginary obstacles were causing him the loss of time and opportunity. For instance, he lay still in New York and declined to open the campaign of 1777 until the middle of June, because it was an accepted military law in Europe that a campaign must not be undertaken until the green forage had come up for the horses; and this he applied in a country where there were quantities of oats and stores of grain on every farm and the barns were filled with hay. So, the plan, of over-running the territory by superior weight of arms and holding it by garrison, having failed in New Jersey, Howe called for more troops in order that he might begin again in the spring. He was making war upon a chart, with figures and demonstrations, but also without the least comprehension of the character and genius of the enemy. It is safe to say, that General Howe could never have conquered America if Great Britain had been willing to furnish him with troops and had allowed him to stay here until the end of his life.

It is interesting to note what the general plan of the English Commander-in-Chief actually was; for at first sight one might be led, by his failure to carry

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out to a definite result any of his movements up to this time, and by his abandonment of every advantage hitherto gained, to conclude that he probably had no plan. We are fortunate enough, however, to possess his own statement in regard to this subject, made by him before a Committee of the House of Commons, in 1779. His narrative is as follows, in calling attention to a letter written by him to the British Secretary of State on the 30th of November, 1776, before the loss of Trenton,—“in which letter,” he said: “is set forth my first plan for the next campaign, with the force requisite, in order, if possible, to finish the war in one year. My propositions were that we should have 10,000 men to act on the side of Rhode Island, and penetrate eastward into the country toward Boston, leaving 2000 for the defence of Rhode Island; 10,000 in the province of New York, to move up the North River to Albany; 5000 for the defence of York Island and its dependencies; 8000 to cover Jersey, and to keep General Washington’s army in check, by giving a jealousy to Philadelphia, which, as well as Virginia, I propose to attack in autumn, provided the success of other operations should have admitted of sending thither an adequate force. South Carolina and Georgia I proposed as objects for winter. But to carry this plan into ex-

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ecution I informed his Lordship that ten ships of the line and a reinforcement of 15,000 rank and file would be absolutely necessary, besides an additional battery of artillery."

It must be remembered that he wrote this when he had more than 20,000 regular troops, fit for duty and equipped for immediate service; and he ought to have known,—there is no excuse for his not having known,—that the whole combined force of America could not resist him in a vigorous campaign. The Secretary of State replied to this letter that, although he could not send the artillery asked for, he hoped to increase the army to 35,000 and that he would soon ship 7800 men to America, evidently believing that this number would raise the force to that strength, notwithstanding the fact that General Howe had asked for 15,000 additional men. "This misconceived calculation cannot otherwise be accounted for, as I apprehend," said Howe, "than by his Lordship's computing the sick, and the prisoners with the rebels as part of the real effective strength of the army." When he found, therefore, that he should have to expect a reinforcement of only about eight thousand men, he modified his plan of campaign in accordance with what he conceived to be his strength, and he said: "During the doubts I entertained, whether

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the large reinforcement I had requested would arrive in time for the execution of the extensive plan mentioned in my letter of the 30th of November, 1776, I had information which I thought might be depended upon that the reduction of Pennsylvania was practicable, even upon the supposition that the whole of my strength fit for duty at the opening of the campaign might not exceed 19,000 men. I therefore suggested, in my separate letter of the 20th of December, 1776, a second plan, which was for acting next campaign in Pennsylvania, and which, when I was told I must expect a reinforcement of only 7800 men, little more than half my requisition, I concluded was to be adopted." And yet, at that moment Sir William Howe held possession of New Jersey, and, by crossing the Delaware River he would have found the road to Philadelphia open to him. In two days, by easy marching, he could have thrown his army into the city; whence Congress had removed, expecting him to do so. It is marvellous that he should have so little comprehended the true condition of his surroundings, and yet he could hardly avoid winning in this contest by the very weight of the circumstances. Even if we accept his theory that, by advancing beyond the Delaware, he would have cut himself off from his communication,—which

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is not true, because there would have been no hostile force to resist him, for Washington must have continued to retreat and the country people were not unfriendly to him,—yet he could have secured ample force to establish communicating posts by recalling the 6000 men whom he had recently detached to Newport; who, for all the good they did him, might almost as well have been sent home to England.

This new plan, of an expedition to Pennsylvania the following year, was accepted, with approval, by the British Secretary of State, who found the reasoning upon which it was based “solid and decisive.” He encouraged General Howe to proceed with it when the spring should open; notifying him, however, at the same time, that he should send a reinforcement which would not exceed 3000 men. Thereupon Howe gave up both his former plans and threw away everything he had gained thus far, except the occupation of New York. “Finding by the Secretary of State’s letter of the 14th of January, 1777, received on the 9th of March following,” he says: “that the reinforcements were not to be expected, I totally relinquished, in my secret letter of the 2nd of April, the idea of any offensive operation, except that to the southward, and a diversion occasionally upon Hudson’s River. I informed the Secretary of State that

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the principal part of the plan formerly proposed could no longer be thought of; that the Jerseys must be abandoned, and Pennsylvania only invaded by sea."

Thus General Howe passed the whole winter in New York, vainly speculating upon the campaign of the following spring, having returned almost to his point of departure, leaving the whole work to be done over again. There can be no doubt that during this stay of several months in New York there was the greatest relaxation of all discipline among the troops, and it is evident that corruption began to make inroads into the funds sent out from England to carry on the war. Place-hunters became numerous, and according to a letter written at the time: "A regiment might be formed of idle, useless commissaries, quarter-masters, agents, and forage masters; there are twenty of these appointments now, where there was one during the last war in America." The same writer said to the Secretary of State, "the luxury and licentiousness of the army have reached your Lordship's ears too frequently to make it necessary for me to expatiate on that head. What can the nation expect from a luxurious and licentious army and an indolent and dissipated general?" (Matter of Fact, to Ld. G. Germain.) Gambling also played

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an important part at this period in the lives of the young British officers, whose love of amusement naturally led them to throw off the burden of idle days by returning to that pleasure, the taste for which they had brought with them from home.

The occupation of New York during this winter became notorious for this sort of dissipation. Indeed, this recklessness had grown to be a national evil in England, where it attracted serious attention and was the source of grave solicitude in the minds of thoughtful men. We have an interesting account of it left to us by Horace Walpole, who, in writing of the reign of George III, says that: "the gaming and extravagance of young men of quality had now arrived at a pitch never heard of. They had a club at Almack's, in Pall Mall, where they played only for rouleaus of £50 each, and generally there was £10,000 in specie on the table. Lord Holland had paid above £20,000 for his two sons. Nor were the manners of the gamesters, or even their dresses for play, undeserving notice. They began by pulling off their embroidered clothes and put on frieze great-coats, or turned their coats inside outwards for luck. They put on pieces of leather (such as were worn by footmen when they cleaned knives), to save their laced ruffles, and to guard their eyes from the

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light and to prevent tumbling their hair, wore high-crowned straw hats with broad brims and adorned with flowers and ribbons; masks to conceal their emotions when they played at quinze. Each gamester had a small neat stand by him to hold his tea or a wooden bowl with an edge of ormolu to hold his rouleaus." This class of men, of whom there were many in the British army in America, were certainly not the soldiers necessary to make war in a country where all the military conditions, of extent of territory, means of communication, difficulties of moving an army, and the natural obstacles which impede success, were different from those of Europe and called for extraordinary energy and decision among the leaders of a foreign invading force. Several of the veteran officers who accompanied Howe and Cornwallis testified afterwards that they considered this the most difficult country to manœuvre in that they had ever seen.

Almost every step taken by the British during this critical period of the war shows distinctly to the student of its history how greatly their love of comfort and of sport is responsible for failure in the campaigns; it led to the most destructive trifling during the winter occupation of the larger cities, by which the energy of the whole body was relaxed and

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dissipated, and to a reckless indifference to consequences in the field which resulted in almost universal failure to follow out an advantage beyond the point where the struggle involved hardship or exposure to physical discomfort. There is no question of their bravery upon the field of battle, where these young gallants often faced the enemy with admirable courage; and many of them lie buried in graves upon American soil. But the manners of the time, with the exceedingly dangerous example of their self-indulgent Commander, destroyed that natural vigor which was an essential element in a contest with people who, for the most part, had always been accustomed to overcome obstacles and were now fighting for a cause in which they were intensely in earnest.

It began to be noticed even in England, by this time, that the British control was not being extended throughout the Continent as rapidly as had been foretold. Howe had done nothing; and Burgoyne, who was then about coming upon the scene, was full of extravagant promises. Some careful observers expected little more from the one than the other; and the keen wit of Horace Walpole linked them together with a sarcasm which has not yet lost its bitterness, when he declared that, upon the whole, he

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preferred the method of General Howe's warfare, for, while Burgoyne wrote letters that would make one imagine he had taken two provinces, Howe, if he never did anything, at least never broke his promise.

Whilst the affairs of the British were in this condition in New York, the case of the Americans was bettering itself day by day. General Washington had induced the most of his troops whose terms expired on the first of January to remain with him for six weeks longer. For this service he allowed each man the sum of ten dollars as a bounty, and he gave evidences of the narrowness of his resources and those of the country, as well as of the value of the money at the time, when he wrote to Congress that he knew this was "a most extravagant price," but that he did not feel justified in refusing it, "when a body of firm troops, inured to danger, was absolutely necessary to lead on the more raw and undisciplined." With the time now left to him by the idleness of the British, he was enabled to raise and discipline bodies of new troops, under an authority which Congress had given him at last after the futility of relying upon the militia had been shown, to establish an army of men recruited in many of the States, to equip them, appoint their officers, and to fix their pay; and cargoes of arms, with other munitions of war, were

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beginning to come in from France, where the American Commissioners were secretly negotiating for them, just at the moment when they were needed to strengthen his hand. So that, when the spring of 1777 opened, he had about 8000 men ready to take the field.

As if to encourage him and give him ample opportunity to inure his men to the life and discipline of the camp, General Howe allowed the spring to pass without molesting the American Commander-in-Chief, and it was not until the month of June that the British army came into the field to open the campaign. At the end of May General Washington moved out from his encampment at Morristown and took a position farther south, upon the heights of Middlebrook, where he was protected by the natural strength of the ground, and in his front by the Raritan River, which, at that time, was too deep to ford. He had thrown General Sullivan forward, with some fifteen hundred men, to Princeton. Although General Howe had already decided that New Jersey was to be abandoned in favor of a movement toward Philadelphia by sea, he left New York about the middle of June and crossed over to Amboy with a large force, moving thence to Brunswick, with the intention of cutting off Sullivan from the main army and then

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pushing on to the Delaware; or, failing that, to draw Washington away from his present strong position in order to attack him with advantage by a greatly superior force. Howe marched his army in two columns to Middlebush and Hillsborough, two villages situated in a level country plainly visible from the American camp; keeping the Raritan River between himself and the enemy. When he did so, Howe was equipped as if to cross the Delaware; and he hoped that, by making a feint in that direction, he could draw Washington into an engagement; for he was convinced that the American Commander would never yield the road to Philadelphia without a contest. This was true, and the events which followed proved it by demonstration. But, since Howe was already well upon the road to Philadelphia, and might have reached it then by fighting a battle for which he was entirely prepared, it is astonishing that he did not force Washington into an engagement. The chances are that he could have defeated him and have moved to his objective point; just as he did three months later, when, after enormous expense, and the loss of the whole summer of 1777, wasted to produce the very result which then lay within his immediate control, he met Washington at Brandywine and entered Philadelphia in September.

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This was one of the greatest blunders that Howe committed during the war. He refused for the second time to take the direct road across the Delaware, which, it is true, was not open to him without a contest now as it had been in December before the action at Trenton. He would have had to fight for it at this time; but he was forced now to fight, in any event, because the American situation had greatly improved in the interim and General Washington's army offered a firmer resistance. The fact, however, that, by the official returns, Howe had at that moment an exceedingly well-equipped army of 30,000 men, throws all the weight of probability in the direction of success upon his side. Out of General Washington's 8000 soldiers many of them had never left their homes before.

Finding that he was unable to draw the American Commander-in-Chief into a false position, Sir William Howe withdrew his army to Amboy. Washington followed him to a point called Quibble Town and threw forward several large bodies of troops, under General Maxwell and Lord Stirling, to harass the enemy's rear, which led to the return of part of the British forces under Lord Cornwallis, who hoped to cut off these advanced parties; but after rather a warm action between these detachments, General

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Howe finally withdrew, on the 28th of June, from the State of New Jersey, which he was not destined to see again.

He proceeded now to carry out his extraordinary plan of attacking Philadelphia by sea. On the 5th of July, a little more than a year from the date of his arrival at Sandy Hook from Halifax, during which time he had made no substantial progress toward a termination of the war, he embarked his army of 19,500 men upon transports and kept them pent up, during exceedingly warm weather, for over two weeks before he put to sea, which he finally did on the 23rd. He had withdrawn some of the troops who had been sent to Newport, though the greater part of that force was left there to do garrison duty, under General Prescott; and the defences of New York were entrusted to Sir Henry Clinton who had just returned to America from England.

The intention of Sir William Howe, upon leaving New York, was, to proceed up the Delaware River to Philadelphia; therefore he headed his course for the Capes of the Delaware, which he sighted in a week from the time he left Sandy Hook. Upon finding, however, that obstructions had been placed in the river which would prevent him from going quite up to the city, he withdrew from the attempt in that

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direction and sailed around into Chesapeake Bay, where he landed, at the head of the Elk, on the 24th of August. From the time he had put his troops aboard the transports, early in July, until they went ashore at the head of the Elk, he had kept them constantly confined, which led to much sickness among the men and destroyed nearly all the horses. An officer who accompanied the expedition testified that they were "three weeks on the passage to Elk, and detained there to refresh the troops and collect horses, before the army was ready to march; in the course of which, by death, sickness, desertion, etc., we had 1500 less men fit for duty than when at the Delaware."

It would be difficult to find a military plan so ill-advised, so needless, and so badly executed as this one by which Howe attacked Philadelphia by way of the Chesapeake. Of all the circumstances connected with it there is not a single one to justify it. There was no reason why he could not have gone up the Delaware and made his landing at Chester, saving considerably more than a month, with the fleet to support him, and going ashore about sixteen miles from his objective point, instead of nearly sixty, the distance from the head of the Elk. We have in this connection the contemporaneous statement made to the British Secretary of State, that "the danger of

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the navigation in the Delaware River is not greater than in Chesapeake Bay; the former is wider and more commodious for ships at Chester, than the River Elk is, so far up. It was also equally unfortified." And it is to be noted that, as the fleet could not coöperate with the army, Howe dismissed it, and sent it around again into the Delaware, thus cutting himself off from that means of retreat, as well as separating himself from his supply of provisions, in case he had been repulsed. At all events, he had brought his army to the head of Elk, and, after mature deliberation, he was ready to open the campaign, in the month of September.

During this time, General Washington, who had been informed of the sailing of the British Commander from New York and of the appearance of the fleet off the Delaware Capes, had concentrated his forces on the north side of Philadelphia, awaiting to discover the enemy's plans. News having been brought to him that the ships had come into Chesapeake Bay, he marched his army through the city and advanced to Wilmington, where he arrived while Howe was landing his troops at the head of Elk. He was prepared now to give battle, and to contest the possession of Philadelphia.

We have the proof, in the records of the British

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State paper office, that Howe took with him from New York 19,500 men. General Washington then had, including militia and volunteers who had been hastily summoned in this case of extraordinary danger, something less than 12,000 troops with whom to oppose Howe's army. But it was a crisis which had to be met. Public opinion demanded that Philadelphia, the seat of Congress, should be defended if possible; and every incentive, both in the interest of the cause of liberty as well as to check the boldness of the disaffected, urged Washington to make a stand for it with his Continentals, inferior in numbers and equipment as he was. Two weeks after the arrival of the British at the head of Elk, the armies lay opposite each other, two miles apart, skirmishing each day and making ready for the encounter which it was evident must soon take place.

On the 9th of September, whilst at Newport, in Delaware, General Washington discovered that Howe's purpose was to engage his attention in front whilst he moved by his right, and, by passing the Brandywine River, to gain a position between him and Philadelphia. In order to prevent this, he decided to change his position; therefore, moving off about two o'clock in the morning, he crossed the Brandywine and took possession of high ground

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which controlled its most accessible crossing, at Chadd's Ford, on the 10th. Upon the following day, the 11th of September, occurred the action known as the battle of Brandywine, in which, after a gallant struggle and much hard fighting, the Americans were forced to give way, having been almost surrounded. General Washington had to retreat to Chester. But, by his quick perception, he rescued his army and was able the next day to take the field. At midnight on the day of the battle, he wrote to Congress:

"I am sorry to inform you that, in this day's engagement, we have been obliged to leave the enemy masters of the field. Unfortunately the intelligence received of the enemy's advancing up the Brandywine and crossing at a ford six miles above us, was uncertain and contradictory, notwithstanding all my pains to get the best. This prevented me from making a disposition adequate to the force with which the enemy attacked us on our right; in consequence of which the troops first engaged were obliged to retire before they could be reinforced. I have directed all the troops to assemble behind Chester, where we are now arranging for this night. Notwithstanding the misfortune of the day, I am happy to find the troops in good spirits."

The British contented themselves by simply occupying the field of battle. They made no effort to fol-

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low the broken columns of the Continental army, which, defeated, and distressed by the burden of a fatiguing day, had fled in great confusion to Chester. Sir William Howe did not avail himself of his victory, even to the slightest degree. He lay nearer to Philadelphia than Washington, whom he might readily have intercepted, and, besides cutting off his crippled army, might have seized the Continental stores and magazines which had not been removed from the city. It is this failure to act upon their success at Brandywine that General de LaFayette, wounded himself, and hurrying along with the fugitive mass toward Chester, singled out as one of the worst mistakes of the British; who made, as he said, "plenty of others during the war." The American Commander-in-Chief showed remarkable energy and courage in the movements which he executed at this time; when, although defeated in the first encounter, he still continued to face the enemy.

Immediately after the battle of Brandywine, Washington marched his army from Chester back to Germantown, where he gave them a short rest, and, having renewed their provisions and supplied them with ammunition, he re-crossed the Schuylkill River with the intention of offering battle a second time to General Howe. Both armies were about to meas-

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ure their strength a few days later, when a violent rain-storm rendered the ammunition almost useless, and General Washington, fearing the design of the enemy to shut him up between the rivers, withdrew to the north. On the 23rd of September Sir William Howe crossed the Schuylkill with his whole army. On the 26th he occupied Germantown, and on the following day Lord Cornwallis, at the head of a strong detachment, took possession of Philadelphia.

Thus the British general succeeded at last in accomplishing the purpose for which he had wasted more than a year, sacrificed the lives of a great number of men, and squandered enormous sums of money; and, as the event proved, it did him no good when he had attained it, for the King's authority was not strengthened by this conquest, nor was Pennsylvania used as a base from which to extend the royal control in other States. The British abandoned Philadelphia during the following year, without having exerted the slightest permanent influence upon the country, except that of hatred toward themselves. When they retired through New Jersey and took all their baggage across the Hudson River into their quarters at New York, they went back to the point from which Howe had started a year before to go to the Chesapeake; and from which, two years

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before, he undertook the conquest of America after his landing at Staten Island. During that time nothing had been accomplished, except to train and discipline the Continental soldiers by experience in the field, to unite the people by creating a national sentiment which increased daily with the growing confidence in themselves, and to make American Independence a certainty, which might have been postponed by the weight of circumstances or retarded by disaster, but which, after that, could not be prevented.

Much of all this is due to the conduct of Sir William Howe alone, and from the standpoint of his own countrymen he must undoubtedly be charged with a great burden of responsibility,—as great indeed as that of any individual engaged in the contest,—for the loss by Great Britain of her American Colonies. The occupation of Philadelphia is a striking example of the idle, self-indulgent life, in which he sacrificed interests of paramount importance to his countrymen. There also his personal influence was exceedingly damaging upon the men who surrounded him and were under his command. Even Stedman, Englishman as he was, did not hesitate to speak in the strongest terms of condemnation of what he calls “this long winter of riot and dissipation.” “A want of discipline and proper subordination per-

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vaded the whole army," said he, "and if disease and sickness thinned the American army camped at Valley Forge, indolence and luxury perhaps did not less injury to the British troops at Philadelphia. A very unfortunate inattention was shown to the feelings of the inhabitants. They experienced many of the horrors of civil war. The soldiers insulted and plundered them; and their houses were occupied as barracks, without any compensation being made to them. Some of the first families were compelled to receive into their habitations individual officers, who were indecent enough to introduce their mistresses into the mansions of their hospitable entertainers. Gaming of every species was permitted and even sanctioned. A foreign officer held the bank at the game of faro, by which he made a very considerable fortune; and but too many families in Britain have to lament its baneful effects. Officers who might have rendered honorable service to their country, were compelled by what was termed a bad run of luck, to dispose of their commissions and return penniless to their friends in Europe. The father who thought he had made a provision for his son by purchasing a commission for him ultimately found that he had put his son to school to learn the science of gambling, not the art of war."

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We have no more striking illustration than that given by this English officer, of the corrupt state of the British army in America, and no better insight into the causes of the blundering and stupid mismanagement of the campaigns, which otherwise would be incomprehensible. General Charles Lee, who knew many of these men personally, and who came into contact with Sir William Howe during his imprisonment, gave a description of him, in a letter written at Valley Forge, in 1778, to Dr. Benjamin Rush, of Philadelphia.

“You would think it odd,” he wrote, “that I should seem to be an apologist of General Howe. I know not how it happens, but when I have taken prejudices in favor or against a man I find difficulty in shaking them off. From my first acquaintance with Mr. Howe I liked him. I thought him friendly, good-natured, brave and rather sensible than the reverse. I believe still that he is naturally so; but a corrupt, or, more properly speaking, no education, the fashion of the times, have so totally perverted his understanding and heart, that private friendship has not force sufficient to keep a door open for the admittance of mercy toward political hereticks. . . . He is, besides, the most indolent of mortals, never took further pains to examine the merits or demerits of the cause in which he was engaged than merely to

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recollect that Great Britain was said to be the Mother Country, George the Third King of Great Britain, that the Parliament was called the representative of Great Britain, that the King and Parliament formed the Supreme Power, that a Supreme Power is absolute and uncontrollable, that all resistance must consequently be rebellion, but above all that he was a soldier and bound to obey in all cases whatever. . . . But I could distinguish, when left to himself, rays of friendship and good nature breaking out—it is true he was seldom left to himself; for never poor mortal thrust into high stations was surrounded by such fools and scoundrels. He is, naturally, good-natured and complacent, but illiterate and indolent to the last degree, unless as an executive soldier in which capacity he is all fire and activity, brave and cool as Julius Cæsar,—his understanding is, as I observed before, rather good than otherwise, but was totally confounded and stupified by the immensity of the task imposed upon him. He shut his eyes, fought his battles, drank his bottle, advised with his counsellors, received his orders from North and Germain, one more absurd than the other,—shut his eyes, fought again, and is now, I suppose, called to account for acting according to instructions, but I believe his eyes are opened.”

After the attack made upon him by General Washington at Germantown in October, and the contest for

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the Delaware River in order to open communication with the fleet under his brother, the Admiral, which led to the actions at Red Bank and at Mud Island, General Howe did nothing to advance the British cause in America. As it was said at the time, the only fruit of the whole campaign of 1777 "amounted to no more than the acquisition of good quarters for the army at Philadelphia." (Stedman.) For this useless expedition he had abandoned Burgoyne to his fate at Saratoga, through which event Great Britain lost at one blow the aid of her whole northern army, and the United States gained, as its immediate consequence, the alliance and open support of France. Howe knew that Burgoyne was upon his way to Albany, and he knew that the purpose of the expedition was to unite with him in holding the Hudson River in order to cut off New England from the Middle States. His principal excuse for neglecting to make this junction was that the orders from the War Office never reached him, which was true. Yet, he was Commander-in-Chief in America, and there was no doubt that in the management of all military affairs the Government intended him to use the largest discretion. He was warned of the danger which threatened Burgoyne if he were left to himself; but Howe is said to have shrugged his shoulders

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and made the remark that his capture would merely lead to another campaign.

In the spring of 1778, whilst the British army was still at Philadelphia, this indolent general was recalled at his own request, because he felt that he no longer retained the confidence of the Ministry necessary to the successful execution of such important trusts; and, upon being relieved by Sir Henry Clinton, he sailed for England. Laying down his authority which he had exerted with unvarying incompetence, he was saluted upon his departure from his officers in Philadelphia, whom he had indulged to the point of degradation, by a fête called “the Mischiana,” which recalled the extravagance of Court life in France during the reign of Louis XIV, and might have done honor to the successes of the most attentive soldier returning triumphant from the wars. The reports of it were heard by right-minded people in England with mortification, and it was referred to by British writers with shame.

Upon his arrival in London he asked for, and obtained, a Committee of Inquiry from the House of Commons, for the purpose of shielding himself from the bitter attacks that were justly made upon his conduct of the war; but, although he was supported by powerful influences in the opposition with whom

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he allied himself, the evidence of officers and other witnesses acquainted with affairs in America was so adverse that his friends were glad to abandon the inquiry. Their support of him was sufficient, however, to shield him from public disgrace, and even to secure for him official position in which he passed comfortably the remainder of his life. The facts of the case clearly show, however, that, in her efforts to suppress the American Revolution, Great Britain had set up for herself one insurmountable obstacle which thwarted her designs and made success impossible. That obstacle was, Lieutenant General Sir William Howe.

